THE

HISTORICAL REGISTER

OF THE

UNITED STATES.

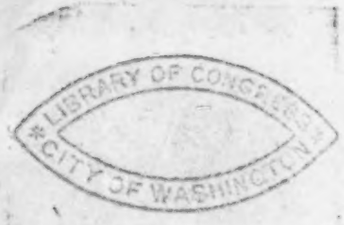
T. H. Palmer

PART I.

FROM THE DECLARATION OF WAR IN 1812,

TO JANUARY 1, 1814.

VOL. I.



WASHINGTON CITY,

PUBLISHED BY THE EDITOR, T. H. PALMER.

Printed by G. Palmer, Philadelphia.

1814.

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PREFACE.

IT has long been a subject of surprise and regret, that among the many valuable periodical publications in the United States, no one should have been devoted to the preservation of an authentic and complete collection of American state papers and official records. Several weekly and other publications, it is true, have professed to devote a portion of their columns for this purpose; but the mass of extraneous matter with which these valuable documents are mingled, in publications of this nature, is such as to render it a work of labour to refer to them; and from their being generally conducted by violent partizans, they lose much of their authority and usefulness. The official documents in works of this kind too, are generally incomplete, and are seldom, if ever, derived from authentic sources, but merely copied from newspapers, which, from the hurry and carelessness with which they are conducted, are liable to numerous omissions and the most gross blunders.

To supply this deficiency is the principal object of the present publication. For this purpose, it is intended to publish two volumes annually, the first of which will be devoted chiefly to legislative proceedings, and notices of internal improvements, and of the progress

of the arts and manufactures, &c.; the second to recording events more strictly historical.

But though the main object of the Register, is the collection and arrangement of documents respecting *American* history, its pages will not be exclusively devoted to that purpose. It is expected that sufficient room will generally be found for recording the most important events occurring in other countries, and particularly in Europe. The importance of the transactions of the United States for the last eighteen months, however, and the anxiety of the Editor to give the documents of that interesting period complete and entire, have induced him to devote the first volumes exclusively to American affairs, and to postpone a number of interesting articles which had been prepared, among which are a history of the campaigns in Russia and Germany, in 1812–13, and a history of the revolution in Spain, up to the present time.

The Register commences with a "Review of the Political Institutions of the United States." This review contains short comparative notices of the various provisions of the different state governments, with a more ample detail of the institutions of the federal government. It is believed that this essay will be found generally interesting, as comprising in small compass much useful information, not to be otherwise attained without a great deal of labour and research.

The history of the proceedings of congress during the two sessions held since the declaration of war, with a complete collection of the state papers laid before them by the executive, copied from the originals printed for the use of congress, occupies the remainder of

the volume. The plan which has been adopted in this section of the work is to present the proceedings of congress digested into a regular narrative, giving a view of their acts, and of the propositions which have occupied their attention, in their natural order, without regard to the time of their occurrence. The advantages of this plan over that of a journal will, it is believed, be sufficiently obvious to every reader. In the proceedings of the first session of the 13th congress, will be found a digested view of the system of internal revenue, which went into operation on the first of January, 1814.

The second volume is occupied by a history of the most remakable events that have occurred from the declaration of war to the commencement of the year 1814, followed by a complete collection of official historical documents for that period, in which will be found a number of interesting official letters which are now for the first time made public. The official documents are so arranged as to show at one view both the British and American statements, and they generally follow the order of the history, of which they may be considered an amplification and elucidation.

The work has been divided into *two* annual volumes, in compliance with the wish of many of the subscribers, who objected to its bulkiness on the former plan, and suggested that its interest would be much increased, by publishing it twice instead of once a year*.

* To accommodate those who prefer it in its original shape a few will be bound with the two volumes in one. Henceforward one volume will be published as soon as possible after the conclusion of each session of congress; the other about the commencement of the year, probably on the first of February.

It was originally intended that an introductory volume should have been published, containing the speeches or messages of the different presidents, at the opening of each session of congress, and the diplomatic correspondence relative to the infractions of the rights of the United States by the belligerent powers, which it was expected would have contained a compendious view of the Union since the adoption of the Federal constitution. In examining the archives of congress, however, for the purpose of making this collection, it was found, that the presidential speeches and messages would be extremely imperfect unless they were accompanied by the voluminous documents that were at the same time laid before that body, to which numerous references are made. Such a vast mass of other important documents throwing a light on the history of the country was likewise found, as determined the Editor to relinquish this part of his plan for the present, with a view of employing all the leisure that his work would afford, in drawing up such a digest of the proceedings of congress and of the valuable historical documents in the capitol, as, connected with notices of the most remarkable events that have taken place, would form a complete history of the United States. It will be easily perceived that this will be a work of much time and labour. Its extent cannot at present be exactly ascertained, though it most probably will fill at least three or four volumes; it will of course be optional with the subscribers either to purchase these volumes or not.

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HISTORICAL REGISTER.

REVIEW OF THE POLITICAL INSTITUTIONS OF THE UNITED STATES.

CHAPTER I.

OF THE STATE GOVERNMENTS.

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§ 1. THE extensive country comprehending the United States has been principally settled by emigrants from the British dominions. The accounts of the discoveries of Columbus, towards the close of the 15th century, filled all Europe with astonishment and admiration, and inspired very generally among maritime nations the desire of sharing with Spain in the glory, the wealth, and the dominion to be acquired in the new world. So early as 1495, Henry VII of England commissioned Sebastian Gabotto (or Cabot, the name he assumed in England), a Venetian, to discover and take possession, in his name, of any country that was unoccupied by a Christian state. Two years afterwards, Cabot discovered Newfoundland, and sailed along the coast of North America from lat. 56° to 38° N. From this discovery the English deduced their title to this extensive region.

During the 16th century, a number of abortive attempts were made by English adventurers to effect a settlement in America. Misled by the delusive dreams of avarice, the attention of those adventurers was principally devoted to the search after gold and silver mines, totally regardless of those more valuable

treasures which every where met the eye. The consequence was, that those wretched colonists either abandoned the country in despair, or were destroyed by famine, or cut off by the natives. Towards the end of that century, however, more just views began to be entertained in England of the real value of this country. An extensive association was formed of influential and wealthy individuals, for the purpose of establishing colonies, to whom were granted, in the year 1606, under the great seal of England, those territories in America lying on the sea-coast, between the 34th and 45th degrees of north latitude. They were divided into two companies, the first of which was required to settle between the 34th and 41st, the other between 38th and 45th degrees of north latitude, yet so that the colony last formed should not be planted within 100 miles of the prior establishment.

In the following year, 1607, the first permanent settlement was made in Virginia, the name then given to all that extent of country now forming the United States, except Georgia. The emigrants, 105 in number, took possession of a peninsula on the northern side of James river, and erected a town, which, in honour of their sovereign, they called Jamestown. Thirteen years afterwards, a congregation of English puritans, who had been driven to Holland by religious persecution, sailed for America, 101 in number, and arrived at Cape Cod, in November, 1620. From this handful of people and their subsequent associates, have sprung the hardy New Englanders New Hampshire, Rhode Island, and Connecticut being in a great measure shoots from this establishment.

In less than 80 years from the first permanent English settlement in North America, the two original patents which had been granted by king James were divided into twelve distinct and unconnected provinces, and in 50 years more a thirteenth, by the name of Georgia, was added at their southern extremity.

§ 2. The inhabitants of the English colonies received from their first settlement, impressions highly favourable to democratic institutions. They were all one rank, and numbers of them had fled, not only from religious but from political persecution. Their governments were of four kinds:

The first was a *charter* government, by which the powers of legislation were vested in a governor, council, and assembly, *all chosen by the people*. This secured to the governed far more freedom than either of the others. Of this kind were the governments of Connecticut and Rhode Island; and the inhabitants of those states, from the time of obtaining their charters, enjoyed the same degree of liberty, which they have enjoyed since the

revolution. Of this kind also was that of Plymouth colony, and originally that of Massachusetts.

The second was a *proprietary* government, in which the proprietor of the province was governor; although he generally resided in England, and administered the government by a deputy of his own appointment; the assembly only being chosen by the people. Such were the governments of Pennsylvania and Maryland; and originally those of New Jersey and the Carolinas.

The third was a *royal* government, in which the governor and council were appointed by the crown, and the assembly by the people. Of this kind were those of New Hampshire, New York, Virginia, Georgia, New Jersey after 1702, and the Carolinas after 1728.

The fourth was a *mixed* government, in which the governor alone was appointed by the crown, and both the council and assembly were chosen by the people. The governor, however, had the right to negative a certain number of the council; but not to fill up vacancies thus occasioned. Of this kind was the government of Massachusetts.

This variety of governments created different degrees of dependence on the crown. The charter governments had the sole power of enacting laws; but the laws might not be contrary to the laws of England. In the others, the laws must be ratified by the king.

§ 3. This state of things continued until the conclusion of the war of 1755, which ended by the expulsion of the French from Canada, and its annexation to the British dominions in North America. Within one year from the peace began the struggle between Great Britain and her colonies, relative to the right of parliament to impose taxes upon them, a struggle that eventuated in their complete independence. The attempt to tax America by a body in which they were not represented, and over which they had no controul, excited a general spirit of resistance throughout the country, which broke out in hostilities in the spring of 1775; and on the 4th of July, 1776, a declaration of independence was issued by a congress of deputies from all the provinces, held at Philadelphia. On the 15th of May preceding, a resolution had been passed by the same congress, recommending to the different colonies to adopt new forms of government suitable to the exigencies of affairs, on the ground of its being irreconcileable to reason and good conscience for the people to take the oath and affirmations necessary for the support of any government under the crown of Great Britain, since they had been excluded, by an act of parliament, from the protec-

tion of the crown, which rendered it necessary that the exercise of every kind of authority under that crown should be totally suppressed. This recommendation was generally acted on immediately, and at length prevailed in all the provinces except Connecticut and Rhode Island, where it was deemed unnecessary to make any change, as in those colonies the executive as well as the whole legislature had always been elected by themselves.

§ 4. At the time of the declaration of independence, the United States consisted of thirteen distinct provinces, namely, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia. The number of the states is now eighteen.

§ 5. Vermont had been possessed at different times by Massachusetts, New Hampshire, and New York, and a part of it by Connecticut. The inhabitants, by their representatives in convention at Windsor, on the 25th of December, 1777, declared, that "whereas all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals, who compose it, to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man: and, whenever those great ends of government are not obtained, the people have a right, by common consent, to change it, and take such measures as to them may appear necessary, to promote their safety and happiness.

"And whereas the inhabitants of this state have (in consideration of protection only) heretofore acknowledged allegiance to the king of Great Britain; and the said king has not only withdrawn that protection, but commenced and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them; employing therein not only the troops of Great Britain, but foreign mercenaries, savages, and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British parliament, with many more acts of tyranny (more fully set forth in the declaration of congress), whereby all allegiance and fealty to the said king and his successors are dissolved and at an end, and all power and authority derived from him ceased in the American colonies. And whereas the territory, which now comprehends the state of Vermont, did antecedently of right belong to the government of New Hampshire, and the former governor thereof, viz. his excellency Benning Wentworth, esq. granted many charters of lands and corporations within this state to the present inhabitants and others. And whereas the late lieutenant-governor Colden, of New York, with others, did, in violation

of the tenth command, covet those very lands; and by a false representation made to the court of Great Britain (in the year 1764, that for the convenience of trade and administration of justice, the inhabitants were desirous of being annexed to that government) obtained jurisdiction of those very identical lands, *ex parte*, which ever was and is disagreeable to the inhabitants. And whereas the legislature of New York ever have, and still continue to disown the good people of this state, in their landed property, which will appear in the complaints hereafter inserted, and in the 36th section of their present constitution, in which is established the grants of land made by that government.

"They have refused to make re-grants of our lands to the original proprietors and occupants, unless at the exorbitant rate of 2,300 dollars fees for each township; and did enhance the quit-rent three-fold, and demanded an immediate delivery of the title derived from New Hampshire.

"The judges of their supreme court have made a solemn declaration, that the charters, conveyances, &c. of the lands included in the before-described premises were utterly null and void, on which said title was founded. In consequence of which declaration, writs of possession have been by them issued, and the sheriff of the county of Albany sent, at the head of six or seven hundred men, to enforce the execution thereof.

"They have passed an act, annexing a penalty thereto of thirty pounds fine and six months imprisonment, on any person who should refuse assisting the sheriff, after being requested, for the purpose of executing writs of possession.

"The governors Dunmore, Tryon, and Colden have made re-grants of several tracts of land included in the premises, to certain favourite land-jobbers in the government of New York, in direct violation of his Britannic majesty's express prohibition, in the year 1767.

"They have issued proclamations, wherein they have offered large sums of money for the purpose of apprehending those very persons, who have dared boldly and publicly to appear in defence of their just rights.

"They did pass twelve acts of outlawry on the ninth day of March, A. D. 1774, empowering the respective judges of their supreme court to award execution of death against those inhabitants in the said district, that they should judge to be offenders, without trial.

"They have and still continue an unjust claim to those lands, which greatly retards emigration into any settlement of this state.

"They have hired foreign troops, emigrants from Scotland, at two different times, and armed them to drive us out of possession.

"They have sent the savages on our frontiers to distress us.

"They have proceeded to erect the counties of Cumberland and Gloucester, and establish courts of justice there, after they were discountenanced by the authority of Great Britain.

"The free convention of the state of New York, at Haerlem, in the year 1776, unanimously voted, 'That all quit-rents, formerly due to the king of Great Britain, are now due and owing to this convention, or such future government as shall be hereafter established in this state.'

"In the several stages of the aforesaid oppressions, we have petitioned his Britannic majesty in the most humble manner for redress, and have, at very great expense, received several reports in our favour; and in other instances, wherein we have petitioned the late legislative authority of New York, those petitions have been treated with neglect. And whereas, the local situation of this state from New York, which, at the extreme part, is upwards of four hundred and fifty miles from the seat of that government, renders it extreme difficult to continue under the jurisdiction of said state:

"Therefore it is absolutely necessary for the welfare and safety of the inhabitants of this state, that it should be henceforth a free and independent state, and that a just, permanent, and proper form of government should exist in it, derived from and founded on the authority of the people only, agreeable to the direction of the honourable American congress.

"We, the representatives of the freemen of Vermont, in general convention met, for the express purpose of forming such a government—confessing the goodness of the great Governor of the universe (who alone knows to what degree of earthly happiness mankind may attain by perfecting the arts of government) in permitting the people of this state, by common consent, and without violence, deliberately to form for themselves such rules as they shall think best for governing their future society; and being fully convinced, that it is our indispensible duty to establish such original principles of government as will best promote the general happiness of the people of this state and their posterity, and provide for future improvements, without partiality for, or prejudice against, any particular class, sect, or denomination of men whatever, do, by virtue of authority vested in us by our constituents, ordain, declare, and establish the following declaration of rights and frame of government, to be the constitution of this commonwealth, and to remain in force therein

for ever unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall, by the same authority of the people, fairly delegated, as this frame of government directs, be amended or improved, for the more effectual obtaining and securing the great end and design of all government, herein before mentioned."

It was not, however, until the 4th of March, 1791, that Vermont was admitted into the union, by an act passed on February 18th preceding, New York having the year previous withdrawn its claims.

Kentucky, at the time of the declaration of independence, was comprehended in the province of Virginia, and continued to form a part of that state until 1789, when the legislature, yielding to the wishes of its inhabitants, consented, by an act passed on the 18th of December, to its erection into an independent state. It was admitted into the union on the 1st of June, 1792, by an act of congress passed on the 4th of February, 1791.

The states of Tennessee and Ohio have been formed out of territories at different times vested by deeds of cession in the United States. By the vague, indefinite, and contradictory clauses of the charters under which the different colonies were settled, many were the conflicting claims to the vacant western territory. During the old confederation, congress repeatedly and earnestly recommended to the different states claiming or owning such territory to make cessions of it to the general government, as a further means, as well of hastening the extinguishment of the debts, as of establishing the harmony of the United States. In pursuance of these recommendations, all the claims of the different states to the territory north and west of the river Ohio, were relinquished in favour of the United States, a certain reservation of the right of soil in behalf of Connecticut, and a certain portion of lands for the satisfying of Virginia military grants, excepted. On the 20th of October, 1787, congress passed a resolution, "that it should be represented to North Carolina and Georgia, that the lands ceded by other states, in compliance with the recommendations of this body, are now selling in large quantities for public securities; that the deeds of cession of other states have been made without annexing an express condition that they should not operate until the other states under like circumstances make similar cessions; and that congress have such faith in the justice and magnanimity of the states of North Carolina and Georgia, that they only think it necessary to call their attention to these circumstances, not doubting but upon consideration of the subject they will feel those obligations which will induce similar cessions, and

justify that confidence which has been placed in them." These representations appear to have produced the effect intended; for North Carolina, in December, 1789, ceded the territory now forming the state of Tennessee; and Georgia, in April, 1802, ceded the Mississippi territory to the United States. These cessions were made upon condition that the territories so ceded should at some future time be admitted into the union on an equal footing with the original states. Tennessee was admitted by an act passed June 1, 1796, to take effect on the day of its date; Ohio, by an act passed February 19, 1803.

By the treaty between the United States and France of the 30th April, 1803, the province of Louisiana was ceded by the latter to America. By the act of congress of March 26, 1804, that portion of Louisiana which lies south of the Mississippi territory, and of the 33d degree of north latitude, was constituted a territory under the name of the territory of Orleans. The remainder of Louisiana is now called the Missouri territory. On the 30th of April, 1812, the territory of Orleans was admitted into the union, under the name of the state of Louisiana, by an act of congress of the 8th of the same month.

§ 6. The whole of these eighteen states, with the exception of Rhode Island and Connecticut, possess written constitutions, adopted by conventions elected by the people for the express purpose. Though these constitutions all agree in the great principles of freedom and representation, considerable varieties exist in the *forms* of government.

§ 7. The governor is chosen by the legislature, in New Jersey, Maryland, Virginia, the two Carolinas, and Georgia. In Louisiana, the legislature appoint one of the two having the highest number of votes. In the other states the governor is chosen by the people. There is an executive council for the advice and assistance of the governor in all of the states except New York, Pennsylvania, Delaware, South Carolina, Georgia, Ohio, Kentucky, Tennessee, and Louisiana. In the New England and several other states, there are lieutenant or deputy-governors. In Delaware, Maryland, Virginia, the two Carolinas, Tennessee, and Ohio, the governor possesses no legislative power whatever. In Rhode Island he has a single voice in the upper house, in New Jersey he has a casting voice in the legislative council. In all the other states he possesses a qualified negative on all bills passed by the legislature. The governor is elected for four years in Kentucky and Louisiana, in the other states from one to three years. In some states he is, and in others he is not re-eligible for a certain term.

The governor of Louisiana must visit the different counties at least once in two years, to inform himself of the state of the militia, and the general condition of the country.

§ 8. In all the states the legislative body consists of two branches, except in Vermont, where there is only one house; the governor and council however can propose amendments to the laws in that state, and if these are not agreed to by the legislature, can suspend their passage till next session; and as both the legislature and governor are elected for only one year, the people are enabled to decide between them. The larger body of the legislature is elected for two years in South Carolina and Louisiana; in the other states they are chosen annually, excepting in Connecticut, where they are chosen every six months. The period for which the smaller body is chosen is from one to five years; when chosen for more than one year, a portion of the body is generally annually elected, their terms expiring by rotation.

§ 9. In Rhode Island, Connecticut, and Vermont, the judiciary are appointed for one year; in New Jersey and Ohio for seven. In the other states they hold their offices during good behaviour. The justices of the peace likewise generally hold their offices during good behaviour. Ohio forms a singular exception: there they are *elected* by the people for three years.

§ 10. The qualifications of electors are generally: being a citizen of the United States, one or two years residence in the state, and the payment of taxes. In a few of the states, voters are required to be freeholders; but the value of the freehold is generally small, and such as is possessed by most of the inhabitants. The governor, legislature, &c. in most of the states are required to be freeholders.

§ 11. The governors of New Hampshire, Massachusetts, Maryland, Virginia, and Vermont, by advice and consent of council, and the governor of Louisiana, by advice and consent of senate, appoint to most of the state offices. In Pennsylvania and Delaware the governors possess a very extensive, uncontrouled patronage. In Tennessee and Kentucky, the county courts appoint to the inferior offices in the counties; the other offices are filled, in the former state by the legislature, in the latter by the governor. In New York there is a council of appointment, consisting of the governor and four senators chosen by the assembly; the governor, however, has only a casting voice in their appointments. In New Jersey, the two Carolinas, and Georgia, the legislature make the principal appointments.

§ 12. In Massachusetts and Maryland, the declaration of a belief in the Christian religion is required as a test of office. In New Jersey, no *protestant* can be denied any civil right on account of his religious principles. In Pennsylvania, Vermont, and Tennessee, the belief in a God, and a future state of rewards and punishments, is required as a qualification for office. In North Carolina, no person who denies the divine authority of the Old or New Testament is capable of holding office. In the other states no religious test is required. All the constitutions recognize affirmations excepting those of Virginia and North Carolina.

§ 13. Ministers of the gospel are not eligible as legislators in Maryland, Virginia, North Carolina, and Tennessee. In South Carolina and Kentucky, they are not eligible either as governor or legislator. In New York, Delaware, and Louisiana, they are not eligible to any office whatever.

§ 14. New Hampshire, Massachusetts, and Maryland are the only states whose constitutions make provision for religious establishments. In New Hampshire, the legislature is empowered to *authorize* the several towns, parishes, &c. in the state to make adequate provision, at their own expence, for the support and maintenance of *protestant* ministers of the gospel. The towns have the exclusive right of electing and contracting with their minister; but every person residing in the town is bound by the contract, and must contribute his share towards his support, unless within one month after the vote of settlement he enter his dissent with the town-clerk against contributing. Minors, who come of age after such settlement, inhabitants absent at the time of settlement, and persons moving into the town, are allowed three months after coming of age, returning, or moving into the town, to enter their dissent. Persons who change their religion after the settlement of the minister are likewise exempted.

In Massachusetts the legislature is enjoined to *require* the several towns, &c. to make suitable provision, at their own expence, for public worship, and for the maintenance of *protestant* ministers, and to enjoin on "*all the subjects*" an attendance on the instructions of public teachers, *if they conscientiously and conveniently can.* The money paid by each person is to be applied to the support of the teachers of his own religious sect; provided there be any on whose instructions he attends; otherwise it may be applied to the support of the teacher of the parish in which the money is raised.

In Maryland, the legislature may lay a general and equal tax for the support of the christian religion; leaving to each indi-

vidual the power to direct that the money collected from him shall be paid over for the support of any particular place of worship or minister, or for the benefit of the poor of his own denomination, or the poor in general of any particular county. Every gift, sale, or devise of lands; every devise of goods and chattels; and every gift or sale of goods and chattels to take place after the death of the seller or donor, by any individual, for the support of any place of worship or minister, without the consent of the legislature, is void, excepting land not exceeding two acres for a church or burial ground, which can only be used for such purpose.

§ 15. In Pennsylvania, the legislature are enjoined to provide for schools throughout the state, in such a manner that the poor may be taught gratis. In North Carolina, the legislature are enjoined to establish a school or schools, with such salaries, paid by the public, as may enable the master to instruct at low prices. In New England, though no provision is made by the constitutions, there are free schools in every town*, which are generally supported by a public tax, and under the direction of a school committee. In Ohio, one thirty-sixth part of the lands in each township is reserved as a fund for the establishment of schools, and the constitution provides, that every association of persons for the support of schools shall be entitled to letters of incorperation.

§ 16. Imprisonment for debt, after the debtors have given up all their property to their creditors, is forbidden by the constitutions of Pennsylvania, North Carolina, Georgia, Vermont, Tennessee, Kentucky, and Ohio.

§ 17. Massachusetts is the only state whose constitution appoints titles to the officers of government. The governor is entitled *his excellency*, the lieutenant-governor *his honour*.

§ 18. The constitutions of New Hampshire, Massachusetts, Vermont, North Carolina, and Ohio recognize a right in the people to instruct their representatives.

§ 19. The constitutions of New Hampshire, Delaware, South Carolina, Tennessee, Kentucky, Ohio, and Louisiana point out a mode for calling a convention to alter or amend them. That of Ohio, however, provides that no alteration shall ever take place, so as to introduce slavery or involuntary servitude into the state. In Delaware, Maryland, South Carolina, and Georgia, the legislature may pass a bill amending the constitution, which, if confirmed at the first session of the next legisla-

* In New England the word *town* is not used in the common acceptation of the term, "a collection of houses larger than a village," but signifies a township, or the subdivision of a county.

ture, becomes a part of the instrument. In Massachusetts the sense of the people is directed to be taken in the year 1795, as to the propriety of calling a convention, but no future provision is made for that purpose. The constitution of Pennsylvania declares that the people have at all times a right to alter, reform, or abolish their government, in such manner as they think proper, but points out no mode of taking the sense of the people on the subject. The constitution of New York contains no provision for its amendment, but alterations have nevertheless been made. On the 6th of April, 1801, the legislature passed an act *proposing* to the citizens to elect delegates to meet in convention for amending some parts, and determining the true construction of other parts of the constitution. This proposition was acted upon. The delegates met at Albany, on the 27th of October, and made the alterations, and determined the construction, of those parts of the constitution which had been recommended to their notice by the legislature. The constitution of Vermont provides, "in order that the freedom of this commonwealth may be preserved inviolate for ever," that 13 persons shall be elected by the people once in 7 years, "to be called the council of censors; who shall meet together on the first Wednesday in June next ensuing their election, the majority of whom shall be a quorum in every case, except as to calling a convention, in which two-thirds of the whole number elected shall agree, and whose duty it shall be to enquire, whether the constitution has been preserved inviolate in every part during the last septenary (including the year of their service); and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised, other or greater powers than they are entitled to by the constitution.—They are also to enquire, whether the public taxes have been justly laid and collected in all parts of this commonwealth—in what manner the public monies have been disposed of—and whether the laws have been duly executed.—For these purposes they shall have power to send for persons, papers, and records; they shall have authority to pass public censures, to order impeachments, and to recommend to the legislature the repealing such laws as shall appear to them to have been passed contrary to the principles of the constitution; these powers they shall continue to have for and during the space of one year from the day of their election, and no longer. The said council of censors shall also have power to call a convention, to meet within two years after their sitting, if there appears to them an absolute necessity of amending any article of this constitution, which may be defective; ex-

plaining such as may be thought not clearly expressed—and of adding such as are necessary for the preservation of the rights and happiness of the people; but the articles to be amended, and the amendments proposed, and such articles as are proposed to be added or abolished, shall be promulgated at least six months before the day appointed for the election of such convention, for the previous consideration of the people, that they may have an opportunity of instructing their delegates on the subject."

In conclusion it may be proper to observe, that each of these 18 states is an independent sovereignty, and as such possesses every power not expressly delegated to the general government by the constitution of the United States.

§ 20. Besides the 18 states there are at present five territories included within the boundaries of the United States, namely, Michigan, Indiana, Illinois, Mississippi, and Missouri territories, the latter a part of the former province of Louisiana. By the ordinance for the government of the territory of the United States north-west of the river Ohio, passed by congress under the confederation, which has since been adapted to the present constitution, and extended to the other territories, two grades of territorial government were established. In the first grade, to have effect whilst the inhabitants are few in number, the legislative power is vested in a governor and three judges appointed by the president of the United States. In the second grade, the governor is still appointed by the president, but one branch of the legislature is elected by the people. The other branch is appointed as follows: the representatives nominate ten persons (in Missouri territory 18), one half of whom are appointed by the president to serve 5 years, unless by him sooner removed. The second grade has likewise the privilege of sending a delegate to congress, who has a right of debating, but not of voting. Territories are to be admitted to the second grade of government, as soon as they contain 5000 free male inhabitants, or whenever satisfactory evidence shall be given to the governor that such is the wish of a majority of the freeholders; and whenever a territory has 60,000 free inhabitants, it shall be admitted into the union, on an equal footing with the other states, and, if consistent with the general interest, before that time. All the territorial governments are within the second grade, except that of Michigan.

CHAPTER II.

OF THE GOVERNMENTS OF THE UNION.

§ 1. New England confederacy. § 2. Articles of confederation. § 3. Dissolution. § 4. Albany plan of union. § 5. Causes of its failure § 6. Congress of 1765. § 7. Congress of 1774. § 8. Mode of election. § 9. Powers of delegates. § 10. Their transactions. § 11. Congress of 1775. § 12. Articles of confederation. § 13. Treaty of peace. § 14. Inefficacy of the articles of confederation. § 15. Convention at Annapolis. § 16. Convention at Philadelphia. § 17. Formation of the federal constitution.

§ 1. THE first attempt at union among the English colonies, was made in New England, in 1643, a time when a general combination of the neighbouring Indians against the English settlements was apprehended, and symptoms of hostility betrayed by the Dutch at Manhadoes. A sense of impending danger suggested the policy of union, and after mature deliberation articles of confederation were digested and agreed upon, and in May, 1643, conclusively adopted, by the colonies of Massachusetts, Plymouth, Connecticut, and New Haven. The preamble to these articles is strikingly characteristic both of the times and the place where it was written.

§ 2. "Whereas wee all came into these parts of America with one and the same end and ayme namely to advaunce the kingdome of our Lord Jesus Christ and to enjoy the liberties of the Gospell in puritie with peace. And whereas in our setleinge (by a wise Providence of God) we are further dispersed upon the Sea Coasts and Riuers then was at first intended, so that we cannot according to our desire with convenience communicate in one Government and Juriddiccon: And whereas wee live encompassed with people of seuerall Nations and strang languages which hereafter may proue injurious to vs or our posteritie. And forasmuch as the natiues have formerly committed sondry insolences and outrages vpon seueral Plantacons of the English, and have of late combined themselues against vs. And seing by reason of those sad Distraccons in England which they have heard of, and by which they know wee are hindred from that humble way of seekinge advise, or reapeing those comfortable fruits of protection which at other tymes wee might well expect. Wee therefore doe conceiue it our bounden Dutye without delay to enter into a present Consotiation amongst our selues for mutuall help and strength in all our

future concernments. That as in Nation and Religion so in other respects wee bee and continue one according to the tenor and true meaneing of the ensuing Articles: Wherefore it is fully agreed and concluded by and betweene the parties or Juridiccons aboue named and they joyntly and seuerally doe by these presents agree and conclude That they all bee and henceforth bee called by the name of *The United Colonies of New-England.*"

This confederation entered into a perpetual league of offence and defence, mutual advice and succour, upon all just occasions, both for *preserving and propagating the truth and liberties of the gospel*, and for their mutual safety.

Two commissioners from each of the four colonies were chosen annually, for the regulation of such affairs as concerned the union generally, while each retained its full sovereignty in other respects. No two colonies could join in one jurisdiction, without the consent of the whole; and no other colony could be received into the confederacy, without the like consent.

The charge of all wars was to be borne by the colonies respectively, in proportion to the male inhabitants of each between 16 and 60 years of age; each colony raising their quota as they pleased.

On notice of an invasion by three magistrates of any colony, the confederates were immediately to furnish their respective quotas of men "without further meeting or expostulation." At the next meeting of the commissioners, however, the cause of such invasion was to be considered, and if it should appear that the fault lay in the invaded colony, such colony was to make just satisfaction to the invaders, and bear all the charges of the war.

No colony was permitted, without the general consent, to engage in war, except in sudden and inevitable cases.

Three-fourths of the commissioners (six) possessed the power of binding the whole. Any measure approved of by a smaller majority was to be referred to the legislature of each colony, and only to be adopted if agreed to by all. If on any extraordinary meeting, their whole number should not assemble, any four who should meet were empowered to determine on a war, and to call for the respective quotas of the several colonies; but not less than six could determine the justice of the war, or settle the expenses, or levy money for its support.

Rhode Island, at the instance of Massachusetts, was excluded from this union. Afterwards, in 1648, on her petitioning to be received as a member, her request was refused, unless she would consent to be incorporated with Plymouth, and thereby lose her separate existence. This condition being deemed inadmissible,

she never was taken into the confederacy. The vigorous and prudent measures pursued by the United Colonies entirely disconcerted the plans of the Indians, and preserved a general peace*.

§ 3. This union remained in force upwards of 30 years, when a dissolution of the charters, and a new arrangement of the boundaries of the colonies took place.

§ 4. No other attempt at union was made by the colonies, until the commencement of the troubles in America, previous to the breaking out of the French war of 1755. In the year 1754, the earl of Holdernesse, the British secretary of state, wrote a circular to the governors of the respective colonies, ordering them to repel by force the French encroachments on the Ohio, and recommending to them *union* for their mutual protection and defence.

To digest a plan for this purpose, a general meeting of the governors, and most influential members of the provincial assemblies, was held at Albany. The commissioners at this congress were unanimously of opinion that a union of the colonies was necessary, and they proposed a plan to the following effect: That a grand council should be formed of members to be chosen by the provincial assemblies, which council, together with a president-general to be appointed by the crown, should be authorized to make general laws, and also to raise money from all the colonies for the general defence.

§ 5. The delegates from Connecticut alone dissented from this plan. Their sole objection to it was founded on the powers of the president-general, who, being an officer appointed by the crown, was deemed by that cautious people to be invested by the articles of the union with an authority dangerous to their welfare. The plan, for a very different reason, was not acceptable to the English ministry, who, in lieu thereof, proposed, that the governors of all the colonies, attended by one or two members of their respective councils, should from time to time concert measures for the whole colonies, erect forts, and raise troops, with a power to draw upon the British treasury in the first instance, the sums drawn to be ultimately reimbursed by a tax to be laid on the colonies by act of parliament. This plan was as much disrelished in America as the former had been in England, and the union in consequence fell to the ground†.

* The whole of the proceedings of this first congress may be found in Hazard's State Papers, vol. 2.

† "The ministerial plan laid down above was transmitted to governor Shirley, and by him communicated to Dr. Franklin, and his opinion thereon requested. That sagacious patriot sent to the governor an answer in writing, with re-

§ 6. No further steps were taken towards a union of the colonies until the year 1765, when a universal alarm was excited throughout the country by the passage of the stamp act by the British parliament. Resolutions were passed by several of the legislatures, asserting their exclusive right to tax their constituents. The legislature of Massachusetts, contemplating a still more solemn and effectual expression of the general sentiment, recommended that a congress of deputies from all the colonial assemblies should meet at New York on the first Tuesday in October, and addressed circular letters to the different colonial assemblies to that effect.

At the appointed time and place commissioners met from the legislatures of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three lower counties on the Delaware, Maryland, and South Carolina. The measures adopted by this congress were, a declaration of the rights and grievances of the colonists; and a petition to the king, together with a memorial to each house of parliament. They likewise recommended that the several colonies should appoint special agents, who should unite their utmost endeavours to obtain a redress of grievances. This done, they adjourned.

§ 7. On the passage of the Boston port bill, in 1774, resolutions were passed by the legislatures of Virginia and Massachusetts, and by town-meetings in New York and Boston, recommending that a congress should meet annually, to deliberate on those general measures which the united interests of America should from time to time render necessary. This measure was adopted by all the colonies excepting that of Georgia. The committes of correspondence selected Philadelphia for the place of meeting, and agreed that it should take place in the beginning of September.

The delegates accordingly met at Philadelphia, on the 4th of September, 1774, and the next day they convened at the Carpenter's Hall, when Peyton Randolph, late speaker of the house of burgesses of Virginia, was unanimously chosen president.

§ 8. The members of this congress were generally elected by the colonial legislatures; but in some instances a different system was pursued. In New Jersey and Maryland the elections were made by committees chosen in the several counties for that particular purpose; and in New York, where the royal party was very strong, the people themselves assembled in those

marks on the proposed plan, in which, by his strong reasoning powers, on the first view of the new subject, he anticipated the substance of a controversy which for twenty years employed the tongues, pens, and swords of both countries." *Ramsay's History of the American Revolution.*

places where the spirit of opposition to the claims of parliament prevailed, and elected deputies, who were very readily received into congress.

§ 9. The powers with which the delegates were invested were of various extent. Most generally they were authorized to consult and advise on the means most proper to secure the liberties of the colonies, and to restore the harmony formerly subsisting between them and the mother country. In some instances the powers given appeared to contemplate only such measures as would operate on the commercial connexion between the two countries; in others the discretion of the deputies was unlimited.

§ 10. After considerable discussion, it being found impossible to fix the comparative weight of each province, from the want of proper materials, it was agreed that each colony should have only one vote, whatever should be the number of its deputies. It was also agreed that their proceedings, except such as they might determine to publish, should be kept inviolably secret.

The most important business transacted this session was the passing a declaration of rights, a petition to the king, an address to the people of Great Britain, and an address to the other colonies, inviting them to unite with their brethren in the common cause. Having completed the business before them, and recommended that another congress should be held in Philadelphia, on the 10th day of the succeeding May, the house dissolved itself.

§ 11. Deputies for a new congress being chosen pursuant to the recommendation of the last, they met at the time appointed, the 10th of May, at Philadelphia. Among their first measures was a resolution for raising an army. Totally devoid of money and revenue, congress were forced to adopt a hazardous expedient, the only one, however, in their power for supporting an army, the emission of paper money. A resolution was passed for emitting a sum not exceeding two millions of Spanish milled dollars in bills of credit, and the colonies were pledged for their redemption.

§ 12. The following year, 1776, is a memorable era in the history of America. On the 4th of July, independence was declared, a measure which rendered necessary the formation of new forms of government, for the union as well as for the respective states. A committee of congress had been appointed for digesting articles of confederation between the united colonies, some weeks previous to the adoption of the declaration of independence. Many difficult questions occurred in settling

a frame of government, among the principal of which may be enumerated the fixing the ratio of contributions from the states, and their relative representation in the general legislature. The value of lands was at last fixed upon as the ratio for contributions. That the states should be represented in proportion to their importance was contended for by those who had extensive territory, but those whose dimensions were small replied, that the states confederated as individuals in a state of nature, and should therefore have equal votes. From fear of weakening their exertions against the common enemy, the large states yielded the point, and consented that each should have an equal suffrage. The articles of confederation were not agreed upon by congress until the 9th of July, 1778, having been upwards of two years in discussion, nor were they finally ratified until the 1st of March, 1781.

By these articles the states were prohibited from forming any other confederation or alliance; from laying any imposts or duties that might interfere with treaties made by congress; from keeping up vessels of war, or regular land forces, in time of peace, without the consent of congress; from engaging in war, unless in case of actual invasion, or the *danger of invasion from Indians* being so imminent as not to admit of a delay till congress could be consulted. The states were to have the appointment of all officers "*of or under the rank of colonel*," in land forces raised by them for the common defence.

Delegates were to be annually appointed to congress, in such manner as the legislature of each state should direct; no state to send less than two, nor more than seven; each state to maintain its own; and, whatever might be its number of delegates, to have only one vote.

Congress was invested with the sole and exclusive right of determining on peace or war; of sending and receiving ambassadors; of entering into treaties and alliances; and of establishing courts of admiralty. It was likewise to be the last resort on appeal in all disputes between two or more states; to have the sole and exclusive right of regulating the alloy and value of coin, struck by their own authority, *or by that of the respective states;* of fixing the standard of weights and measures; of regulating the trade and managing all affairs with the Indians; of establishing and regulating post-offices; of appointing all the officers of the naval forces, and all officers in the land forces in the service of the United States, *except regimental officers;* and of establishing rules for the government, and directing the operations, both of the land and naval forces. Congress was invested with no powers over individuals, but only over states in their

corporate capacity. Neither had it the power to regulate trade, or to derive a revenue from it. The land forces of the United States were to be raised by requisitions on the states for their quota of men, in proportion to the number of its white inhabitants.

A number of the most important of these powers, such as declaring war, forming treaties, coining or borrowing money, &c. could only be used by consent of the delegates of nine states; and no other question, except for adjourning from day to day, could be determined except by the votes of a majority of the states.

A committee of congress, denominated *A Committee of the States*, consisting of one delegate from each state, sat during the recess, vested with certain powers by congress.

No alteration was to be made in the articles of confederation without the consent of congress, to be afterwards confirmed by the legislatures of every state.

§ 13. By this government, imbecile and inefficient as it proved to be, was the revolutionary war brought to a close, by a preliminary treaty agreed to on the 20th of January, 1783, which was followed by a definitive treaty on the third of September of the same year.

§ 14. The glorious termination of the struggle for independence by an honourable peace, diffused throughout the United States the most heartfelt joy. But it was soon perceived that something was yet wanting to realize the public and private prosperity expected to follow from the blessings of self-government. The necessity of conferring on the general government more ample powers, powers which might be competent to its preservation, and which would enable it to comply with the engagements it had entered into, became every day more apparent.

Many causes concurred at this time to prepare the public mind for some great and radical change in the political system. The debts of the union amounted, on the first of January, 1783, to nearly forty millions of dollars, for the payment of the principal or even the interest of which, congress possessed no funds, and could acquire none, without the consent of thirteen independent sovereignties.

But the principal cause which brought about the establishment of a new system of government was the restrictions of foreign nations upon the trade of the United States. The necessity of opposing these restrictions by countervailing regulations was sufficiently evident; but to render success even probable, it was absolutely necessary that the power of regulating

commerce should reside in a single legislature. That thirteen independent sovereignties, jealous of each other, could be induced to concur for any length of time in measures capable of producing the desired effect, few were so sanguine as to hope.

Congress, mean while, was unremitting in its endeavours to form commercial treaties in Europe, and particularly with Great Britain, but all its efforts were unsuccessful. As the government of the United States was considered unable to secure the observance of any general commercial regulations, foreign governments declined entering into stipulations which they averred could not be of reciprocal obligation.

The restrictions under which commerce laboured was productive of serious evils to the mercantile interest; the merchants found themselves incapable of contending even in their own ports with foreigners. A meeting being held of the merchants of Philadelphia, to consider the present state of affairs, a memorial was addressed by them to the legislature, praying that they would endeavour to procure from congress a recommendation to the several states to vest in that body the necessary powers over the commerce of the United States. Similar applications were made by the merchants of Boston and other commercial towns.

§ 15. Meanwhile an event took place, which, though originating in different views, terminated in a proposition for a general convention to revise the articles of confederation. The states of Virginia and Maryland appointed commissioners for the purpose of forming a compact relative to the navigation of the Potowmac and Pocomoke, and part of the Chesapeake bay, who met at Alexandria in March, 1785. In the course of their proceedings, they agreed to propose to their respective governments the appointment of other commissioners, with power to make arrangements, for which the assent of congress was to be solicited, for maintaining a naval force in the Chesapeake. The commissioners were also to be empowered to establish a tariff of duties on imports, to which the laws of both states should conform. These propositions received the assent of the legislature of Virginia, and an additional resolution was passed, directing the proposition which respected the duties on imports to be communicated to all the states in the union, who were invited to send deputies to the meeting.

On the 21st of January, 1786, a few days after the passage of these resolutions, another was adopted, appointing commissioners, "who were to meet such as might be appointed by the other states in the union, at a time and place to be agreed on, to take into consideration the trade of the United States; to

examine the relative situation and trade of the said states; to consider how far a uniform system in their commercial relations may be necessary to their common interest, and their permanent harmony; and to report to the several states such an act relative to this great object, as, when unanimously ratified by them, will enable the United States in congress assembled, effectually to provide for the same."

In consequence of these resolutions, commissioners from the states of New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia met at Annapolis, in Maryland, in September, 1786. It was soon perceived that powers much more ample than had been confided to them would be requisite to enable them to effect the beneficial purposes they contemplated. For this reason, as well as in consideration of the small number of states which were represented, the convention rose without coming to any specific resolutions on the particular subject which had been referred to them. Previous to their adjournment, however, they agreed on a report to be made to their respective states, in which was represented the necessity of extending the revision of the federal system to all its defects, and in which they recommended that deputies for that purpose be appointed by the several legislatures, to meet in convention at Philadelphia, on the 2d of May ensuing. On the receipt of this report, the legislature of Virginia passed an act for the appointment of deputies on the part of that state.

§ 16. The legislature of New York shortly after instructed its delegation in congress to move a resolution recommending to the several states to appoint deputies to meet in convention for the purpose of revising and proposing amendments to the articles of confederation. On the 21st of February, 1787, the subject was acted upon in congress, and it was declared "to be expedient, that on the second Monday of May next, a convention of delegates, who shall have been appointed by the several states, be held at Philadelphia, for the sole and express purpose of revising the articles of confederation, and reporting to congress and the several legislatures such alterations and provisions therein, as shall, when agreed to in congress and confirmed by the states, render the federal constitution adequate to the exigencies of government, and the preservation of the union."

§ 17. Agreeably to this resolution, deputies from all the states except Rhode Island met at Philadelphia at the time appointed. On the 17th of September following they closed their labours, by the completion of our present happy constitution. By a resolution of the convention, the new constitution was directed to be laid before congress, and it was recommended that it

should afterwards be submitted to a convention of delegates chosen in each state by the people, under the recommendation of their respective legislatures, for their assent and ratification. It was also recommended that as soon as the conventions of nine states should have ratified the constitution, it should be carried into operation. The institutions of the old government were to be continued till congress could complete the arrangements of the new.

The following year, 1788, the constitution was ratified by the conventions of all the states excepting Rhode Island and North Carolina, which, however, shortly after acceded to the union, and measures were taken for bringing it into operation on the the 4th of March, 1789.

CHAPTER III.

OF THE FEDERAL CONSTITUTION.

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§ 1. The federal constitution may be regarded as articles of a perpetual convention between eighteen independent states, for the transaction, by one head, of all their concerns with foreign nations, and for the regulation of a few internal concerns, which it had been found by experience would be for their mutual advantage to have conducted in a uniform manner, such as the establishment of post-offices and post roads, the coining and regulating the value of money, and the granting to authors and inventors the exclusive right within all the states to their writings and discoveries. To enable this head to execute those affairs, powers have been granted to raise a revenue on certain articles

within the dominions of every member of the confederacy, in some cases exclusively, as on imports and postage of letters; in others in common with the governments of the states, as direct taxes and internal duties. Judicial powers for certain stated purposes have also been granted to the general government.

These powers are not vested in any individual, or set of individuals; neither are they vested in any particular state. All the affairs of the confederacy are managed by deputies delegated for that purpose for stated times, some by the governments, and others by the individual members of the different states which form the union.

The head, or general government, is bound to confine its attention solely to the transaction of the affairs for which it was instituted, leaving all other state concerns to the management of the individual members, who, on their part, are bound likewise not to interfere in the management of the concerns which have been deputed to the general government. In order to draw a clear line of distinction between the duties of the respective governments, a *constitution*, or articles of agreement, has been drawn up, to which the states have *unanimously* consented, but which may be *amended* or *altered* by consent of three-fourths of the confederacy.

§ 2. "The fundamental distinction," says Ramsay, in his History of the American Revolution, "between the articles of confederation and the new constitution, lies in this: the former acted only on states, the latter on individuals; the former could neither raise men nor money by its own authority, but lay at the discretion of thirteen different legislatures, and without their unanimous concurrence was unable to provide for the public safety, or for the payment of the national debt. The experience of several years had proved the impossibility of a government answering the end of its institution, which was dependent on others for the means necessary for attaining these ends. By the new constitution, one legislative, executive, and judicial power pervades the whole union. This ensures an uniform observance of treaties, and gives a stability to the general government, which never could be attained while the acts and requisitions of congress were subject to the revision of thirteen legislatures, and while thirteen distinct and unconnected judiciaries had a constitutional right to decide on the same subject. The people of the United States gave no new powers to their rulers, but made a more judicious arrangement of what they had formerly ceded. They enlarged the powers of the general government, not by taking from the people, but from the state legislatures."

§ 3. The constitution provides that "no state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

"No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of congress. No state shall, without the consent of congress, lay any duty on tonnage, keep troops, or ships of war, in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."

§ 4. At the head of the *executive* branch of the federal government is placed the president, who, together with the vice-president, is elected as follows:

§ 5. Each state appoints, in such manner as its legislature may direct*, a number of electors equal to the whole number of senators and representatives which that state sends to congress, according to the existing apportionment. The appointment or election of electors must take place within 34 days preceding the first Wednesday in December previous to the expiration of the term for which the former president was elected, on which first Wednesday the electors must meet and give their votes at such place in each state as its legislature shall direct. The votes must be by ballot, and must state distinctly the persons voted for as president and vice-president, one of whom, at least, shall not be an inhabitant of the same state with the electors. After voting, the electors must make out and sign three certificates of all the votes by them given, and annex to each a list of their names, certified by the executive of the state. They must then

* The electors are variously chosen in the different states: in some the state is divided into election districts for the purpose; in others they are elected by a general ticket; and in some of the states they are chosen by the legislature. In the 2d session of the 12th congress, resolutions were submitted to both houses proposing an amendment to the constitution, providing that each state should be divided by its legislature into a number of districts equal to the number of electors to which it might be entitled, which should not be altered unless a new apportionment should alter the number of electors for the state. This resolution passed in the senate, but no order was taken upon it in the house of representatives.

seal up the certificates, certifying on each that it contains a list of the votes of the state of ——— for president and vice-president, forward two of them to the president of the senate, one forthwith by the post-office, the other by a person appointed to take charge of and deliver it, by a writing under the hands of a majority of them; the third certificate they must cause forthwith to be delivered to the judge of the district in which they assembled. In case of the absence of the president of the senate from the seat of government on the arrival of the certificates, they must be delivered into the office of the secretary of state, there to be safely kept, and delivered over as soon as may be to the president of the senate. The messenger employed by the electors is allowed by the general government 25 cents for every mile from the place of meeting of the electors to the city of Washington. If a list of the votes from any state shall not have been received at the seat of government on the first Wednesday in January following the election, the secretary of state must send a special messenger to the district judge for the list which had been lodged with him.

Congress must always be in session on the second Wednesday in February succeeding the meeting of the electors, on which day the president of the senate, in the presence of the senate and house of representatives, opens all the certificates that have been received, and the votes are then counted: the person having the greatest number of votes for president being the president, if such number be a majority of the whole number of electors; if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives immediately choose the president, by ballot. In making this choice the votes are taken by states, the representation from each state having one vote; a quorum for this purpose consists of a member or members from two-thirds of the states, and a majority of all the states is necessary to a choice. If the house of representatives do not choose a president, when the right of choice shall devolve upon them, before the following 4th of March, the vice-president then acts as president, as in the case of the death or other constitutional disability of the president. If no person have a majority of the whole of the votes for vice-president, the senate choose that officer from the two highest numbers on the list: a quorum for that purpose consists of two-thirds of the whole number of senators, and a majority of the whole number is necessary to a choice.

§ 6. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of the constitution, is eligible to either of the offices of president or vice-president. These officers must likewise be 35 years of age, and have resided 14 years within the United States.

§ 7. The term for which the president and vice-president is elected is four years.

§ 8. The salary of the president, which cannot be increased or diminished during the period for which he is elected, is 25,000 dollars per annum, with the use of the furniture and other effects in the president's house; that of the vice-president is 5000 dollars per annum; both payable quarterly, at the treasury.

§ 9. The president is commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officers in each of the executive departments, upon any subject relating to the duties of their respective offices: and he may grant reprieves and pardons, for offences against the United States, except in cases of impeachment.

By and with the advice and consent of the senate, he may make treaties, provided two-thirds of the senators present concur; and nominate, and, by and with the advice and consent of the senate, appoint ambassadors, other public ministers, and consuls, judges of the federal courts, and all other officers of the United States, whose appointments are not otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments. All the officers of the United States are commissioned by the president.

The president is authorized to fill up all vacancies that may happen during the recess of the senate, by granting commissions, which expire at the end of their next session.

It is the duty of the president, from time to time, to lay before congress information of the state of the union; and to recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses or either of them; and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He receives ambassadors and other public ministers.

It is also the duty of the president to take care that the laws be faithfully executed; and whenever, from the prevalence of contagious sickness, or the existence of other circumstances, it

would, in the opinion of the president, be hazardous to the lives or health of the members to meet at the place to which the congress then stand adjourned, or at which it shall be next by law to meet, the president is authorized to convene them by proclamation, at such other place as he may judge proper.

§ 10. In case of the removal of the president from office, or of his death, resignation, or inability to discharge its powers and duties, the vice-president shall act as president; and in case of removal, &c. both of the president and vice-president, the president of the senate pro tempore, and in case there shall be no president of the senate, then the speaker of the house of representatives, for the time being, shall act as president, until the disability be removed or a president shall be elected.

Whenever the offices of president and vice-president shall both become vacant, the secretary of state shall forthwith cause a notification thereof to be made to the executive of every state, and shall also cause the same to be published in at least one of the newspapers printed in each state, specifying that electors of the president of the United States shall be appointed or chosen in the several states within thirty-four days preceding the first Wednesday in December then next ensuing, provided there be the space of two months between the date of such notification and the said first Wednesday in December; but if there shall not be the space of two months, and if the term for which the president and vice-president last in office were elected shall not expire on the 3d day of March next ensuing, then the secretary of state shall specify in the notification that the electors shall be appointed or chosen within thirty-four days preceding the first Wednesday in December in the year next ensuing, within which time the electors shall accordingly be appointed or chosen, and the electors shall meet and give their votes on the first Wednesday in December, in the manner above mentioned.

The only evidence of a refusal to accept, or of a resignation of the office of president or vice-president, is an instrument in writing declaring the same, and subscribed by the person refusing to accept or resigning, as the case may be, and delivered into the office of the secretary of state.

§ 11. There are four executive departments at the seat of government, viz. the department of state, the treasury department, the war department, and the navy department.

§ 12. The principal officer in the *department of state*, which was formerly denominated the *department of foreign affairs*, is the secretary of state.

§ 13. The salary of the secretary is five thousand dollars. The appropriation for the clerks and other persons employed in

the department for the year 1813, including the patent office, was $11,555 54.

§ 14. The business transacted in this department, which must be conducted agreeably to the instructions of the president, is the execution of such duties as may be intrusted to it by the president, agreeably to the constitution, relative to correspondences, commissions, or instructions to or with public ministers or consuls, from the United States, or to negociations with public ministers from foreign states or princes, or to memorials or other applications from foreign public ministers or other foreigners, or to such other matters respecting foreign affairs, as the president may assign to the department.

The originals of all the laws, orders, resolutions, or votes of congress are preserved in this department; they are also recorded there in books kept for that purpose. It is the duty of the secretary to cause to be printed, at the end of each session of congress, 10,000 copies of all the acts passed during the session, together with any treaties that may have been made or promulged since the laws of the preceding session were printed; and likewise to cause them to be published in the newspapers, not exceeding three in each state. It is likewise the duty of the secretary to procure and keep in his office all the statutes of the several states.

The seal of the United States is kept by the secretary, and affixed by him to all commissions to officers appointed by the president*. There is a seal of office in the department, for authenticating copies of records and papers in the office.

§ 15. Attached to the department is a patent-office, in which are recorded the claims of persons to the exclusive right to use inventions and new discoveries, vested in the discoverer by law. Models and drawings of the inventions, where practicable, are likewise deposited in the office. Copies of the books, prints, charts, maps, &c. for which copy-rights are obtained, are also deposited here. Neither the patent nor the certificate of copy-right confer rights, where just claims do not exist; they are merely an evidence of the claim to such rights; and on a suit for a breach of such patent or copy-right, the defendant may show that the right does not vest in the plaintiff. In the year 1812, the whole number of patents issued amounted to 237, having produced a revenue to the United States of 7110 dollars, the fee for each patent being 30 dollars.

* When appointments by the president are mentioned, "by and with the advice and consent of the senate" must generally be understood, that being necessary for the appointment of all officers, excepting a few of inferior grade.

§ 16. In the treasury department, there are seven principal officers, namely: the auditor, who receives and settles the public accounts; the comptroller, who examines the settled accounts, and superintends their adjustment; the register, who keeps the accounts of the United States; the commissioner of the general land office, who superintends all affairs respecting the public lands; the commissioner of the revenue, who superintends the collection of the internal taxes; and the secretary, who superintends the whole, and prepares plans for the improvement of the revenue.

§ 17. The salary of the secretary is 5000 dollars per annum. Six clerks were employed in his office during the year 1812; two at a salary of 1800 dollars each per annum, two at 1000 dollars, and two at 900 dollars.

§ 18. It is the duty of the secretary to digest and prepare plans for the improvement and management of the revenue, and for the support of public credit; to prepare and report estimates of the public revenue, and the public expenditures; to superintend the collection of the revenue; to decide on the forms of keeping and stating accounts and making returns, and to grant, under certain limitations, all warrants for monies to be issued from the treasury, in pursuance of appropriations by law; to make report, and give information to either branch of the legislature, in person or in writing (as he may be required), respecting all matters referred to him by the senate or house of representatives, or which shall appertain to his office; and generally to perform all such services relative to the finances, as he shall be directed to perform.

It is likewise the duty of the secretary to digest, prepare, and lay before congress, at the commencement of every session, a report on the subject of finance, containing estimates of the public revenue and public expenditures, and plans for improving or increasing the revenues, from time to time, for the purpose of giving information to congress in adopting modes of raising the money requisite to meet the public expenditures.

It is likewise his duty to cause to be provided, placed, or erected all such light-houses, beacons, buoys, and public piers as may be authorized by law.

§ 19. The secretary is empowered to mitigate or remit fines or forfeitures which have been incurred by a breach of the revenue laws of the United States, in whole or in part, if in his opinion it has been incurred without wilful negligence, or any intention of fraud (see an account of a report on this subject in the proceedings of the 2d session of the 12th congress, chap. 3, § 17, in a subsequent part of this volume.) He may also

discharge insolvent debtors who are in prison on account of debts due the United States, provided it appear to him that no improper concealments or conveyances have been made, with the exception of persons imprisoned for any fines, forfeiture, or penalty, incurred by a breach of any law of the United States, or for monies received by any officer, agent, or other person for their use.

§ 20. The salary of the comptroller is 3500 dollars per annum; thirteen clerks were employed in his office during 1812, the chief clerk at a salary of 1650 dollars; the salaries of the others were from 600 to 1200 dollars per annum, making a total aggregate for clerk hire of 12,025 dollars.

§ 21. It is the duty of the comptroller to superintend the adjustment and preservation of the public accounts; to examine all accounts settled by the auditor, and certify the balances arising thereon to the register; to countersign all warrants drawn by the secretary of the treasury, which shall be warranted by law; to report to the secretary the official forms of all papers to be issued in the different offices for collecting the public revenue, and the manner and form of keeping and stating the accounts of the several persons employed therein. He also provides for the regular and punctual payment of all monies which may be collected, and directs prosecutions for all delinquencies of officers of the revenue, and for debts due to the United States. He is also authorized to decide in all cases of appeal by public officers from the decision of the auditor.

§ 22. The salary of the auditor is 3000 dollars per annum; and that of his principal clerk 1450 dollars. Eleven other clerks were employed in the office in 1812, three of them for short periods, the aggregate of whose salaries amounted to 8529 dollars 34 cents.

§ 23. It is the duty of the auditor to receive all public accounts, and after examination to certify the balance, and transmit the accounts, with the vouchers and certificate, to the comptroller for his decision thereon.

§ 24. The salary of the treasurer is 3000 dollars per annum. Three clerks were employed in his office during 1812, at salaries of 1350, 1000, and 725 dollars.

§ 25. It is the duty of the treasurer to receive and keep the monies of the United States, and to disburse the same upon warrants drawn by the secretary of the treasury, countersigned by the comptroller, recorded by the register, and not otherwise; to take receipts for all monies paid by him; and all receipts for monies received by him, are endorsed upon warrants signed by the secretary of the treasury, without which warrant, so signed,

no acknowledgment for money received into the public treasury is valid. The treasurer renders his accounts to the comptroller quarterly (or oftener if required), and transmits a copy thereof, when settled, to the secretary of the treasury. He likewise, on the third day of every session of congress, lays before the senate and house of representatives, fair and accurate copies of all accounts by him from time to time rendered to, and settled with the comptroller, and also a true and perfect account of the state of the treasury. He must at all times submit to the secretary of the treasury, or the comptroller, the inspection of the monies in his hands; and, prior to the entering upon the duties of his office, must give bond, with sufficient sureties, to be approved by the secretary of the treasury and comptroller, in the sum of one hundred and fifty thousand dollars, payable to the United States, with condition for the faithful performance of the duties of his office, and for the fidelity of the persons to be by him employed.

§ 26. The salary of the register is 2400 dollars per annum. The principal clerk receives 1690 dollars per annum. The aggregate of clerk hire in this office, for 1812, was 15,030 dollars.

§ 27. It is the duty of the register to keep all accounts of the receipts and expenditures of the public money, and of all debts due to or from the United States; to receive from the comptroller the accounts which have been finally adjusted, and to preserve such accounts with their vouchers and certificates: to record all warrants for the receipt or payment of monies at the treasury, certify the same thereon, and to transmit to the secretary of the treasury copies of the certificates of balances of adjusted accounts.

§ 28. The salary of the commissioner of the general land office, is 3000 dollars per annum. This is a new office, which went into operation on the 9th of June, 1812. The sum of 7409 dollars 76 cents was appropriated for clerk hire for this office for the year 1813.

§ 29. It is the duty of the commissioner of the general land-office, under the direction of the secretary of the treasury, to superintend and execute every thing respecting the public lands of the United States, and other lands patented or granted by the United States; to take charge of the records, books, or papers respecting the public lands, and of the seal for authenticating copies of such records, &c.; to make plats of land surveyed under the authority of the United States, when required by the president or either house of congress, and give such information respecting the public lands, and concerning the business of his office, as shall be directed. All returns relative to the public

lands are made to the commissioner, who is empowered to audit and settle all public accounts relative to those lands; after such settlement, he certifies the balance, and transmits the account, with the vouchers and certificates, to the comptroller of the treasury for his examination and decision thereon.

No person in this office, either directly or indirectly, can be concerned in the purchase of public lands.

§ 30. The salary of the commissioner of the revenue is 3000 dollars per annum. The salaries of his clerks are not to amount to more than 4000 dollars per annum.

§ 31. It is his duty to superintend the collection of the direct tax and internal duties; to prepare, under the direction of the secretary, all the forms necessary for the assessors and collectors; to prepare, sign, and distribute the licences necessary for the collection of the duties; and to superintend generally all the officers employed as assessors or collectors. It is likewise his duty to superintend the collection of such of the former internal duties and direct tax as are still outstanding. The secretary of the treasury is authorized to place also the collection of the duties on impost and tonnage under his superintendance, if in his opinion the public service will be promoted by transferring that duty from the comptroller.

All the officers of the treasury department are forbidden by law to trade in any manner in the funds or public property of the United States or of any state.

§ 32. The third executive department is called the war department. Besides the secretary there are two principal officers in the department, the accountant and the paymaster, which latter resides near the head-quarters of the army.

§ 33. The salary of the secretary of war is 4500 dollars, and that of the accountant 2000 dollars per annum. The sum appropriated for clerks in the war department for 1813, was 26,846 dollars. The salary of the pay-master is 1440 dollars per annum. The appropriation for clerks and persons in his office for 1813 was 9500 dollars.

§ 34. The secretary of war performs such duties as are entrusted to him by the president, agreeably to the constitution, relative to military commissions, or to the land forces or warlike stores of the United States, or to such other matters respecting military affairs as the president may assign to him, or relative to the granting of lands to persons entitled thereto, for military services rendered to the United States, or relative to Indian affairs.

The accountant is charged with the settlement of all accounts relative to the pay of the army, the subsistence of officers, boun-

ties to soldiers, the expenses of the recruiting service, the incidental and contingent expenses of the department; he reports, from time to time, all such settlements as have been made by him, for the inspection and revision of the accounting officers of the treasury; he is also charged with the settlement of all military claims. It is his duty to report all such settlements as have been made by him, for the inspection and revision of the comptroller of the treasury.

It is the duty of the paymaster, to receive from the treasurer all the monies which shall be entrusted to him for the purpose of paying the pay, the arrears of pay, subsistence or forage, due to the troops of the United States; to receive the pay abstracts of the paymasters of the several regiments or corps, and compare the same with the returns or muster rolls which shall accompany the said pay abstracts; and to certify accurately to the commanding officer, the sums due to the respective corps, who thereon issues his warrant on the deputy-paymaster for their payment.

§ 35. There are two principal officers in the navy department, the secretary, who is deemed the head of the department, and the accountant.

§ 36. The salary of the secretary is 4500 dollars, that of the accountant 2000 dollars per annum. The appropriation for clerks and other persons employed in the navy department for 1813, was 17,255 dollars.

§ 37. It is the duty of the secretary of the navy to execute such orders as he may receive from the president relative to procuring naval stores and materials, the construction, armament, equipment, and employment of vessels of war, and all other matters connected with the naval establishment.

The accountant is charged with similar duties to those of the accountant of the war department.

§ 38. During a vacancy, by removal or otherwise, in any of the principal offices in the executive departments, the chief clerk executes the duties of the office. Should the president think it necessary, however, he may employ a person to fill the office *pro tem.*, but not for a longer term than six months.

CHAPTER IV.

OF THE FEDERAL CONSTITUTION.

(*In Continuation.*)

§ 1. Legislature. § 2. Their qualifications. § 3. House of representatives. § 4. Senate. § 5. President and speaker. § 6. Powers of congress. § 7. Stated meetings. § 8. Internal regulations. § 9. Revenue bills. § 10. Form of passing laws, &c. § 11. Privileges of the members. § 12. Compensation. § 13. Officers of the legislature. § 14. Standing committees. § 15. Mode of supplying vacancies. § 16. Judiciary. § 17. General jurisdiction. § 18. Tenure of office. § 19. The supreme court. § 20. Its jurisdiction. § 21. Salaries. § 22. District courts. § 23. Their jurisdiction. § 24. Salaries of district judges. § 25. Circuit courts. § 26. Their jurisdiction. § 27. The attorney-general. § 28. District attorneys. § 29. Marshal. § 30. Clerks of court. § 31. Appointment, &c. of inferior judicial officers. § 32. Pay of jurors and witnesses.

§ 1. ALL the legislative powers of the general government are vested in a congress, which consists of a senate and house of representatives.

§ 2. No person can be a representative who is not 25 years of age, and has not been seven years a citizen of the United States; a senator must be 30 years of age, and have been nine years a citizen. Both representatives and senators must be inhabitants of the state in which they are chosen.

§ 3. The house of representatives consists of members chosen every second year by the people of the several states, the electors of whom must have the qualifications requisite for the most numerous branch of the state legislature*. Representatives are apportioned among the states according to their respective numbers, which are determined by adding to the whole number of free persons, including those bound to serve for a term of years, and excluding Indians not taxed, three-fifths of all other persons. An enumeration or census is taken for this purpose every tenth year, when, if necessary, a new apportionment takes place by congress.

* The mode of choosing representatives is regulated by the state legislatures. In some of the states they are chosen by districts, in others by general ticket.

§ 4. The senate is composed of two senators from each state chosen by the respective legislatures for six years. One-third of the senate is chosen every second year, their term of office expiring biennially by rotation.

§ 5. The vice-president of the United States is president of the senate, but has no vote, unless they are equally divided. The senate choose their other officers, and also a president pro tempore, in the absence of the vice-president, or when he exercises the office of president of the United States. The house of representatives choose their speaker and other officers.

§ 6. Congress are authorized by the constitution

"1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States: but all duties, imposts, and excises shall be uniform throughout the United States.

"2. To borrow money on the credit of the United States.

"3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

"4. To establish an uniform rule of naturalization; and uniform laws on the subject of bankruptcies, throughout the United States.

"5. To coin money; to regulate the value thereof, and of foreign coin; and fix the standard of weights and measures.

"6. To provide for the punishment of counterfeiting the securities and current coin of the United States.

"7. To establish post-offices and post-roads.

"8. To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

"9. To constitute tribunals inferior to the supreme court.

"10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

"11. To declare war; grant letters of marque and reprisal; and make rules concerning captures on land and water.

"12. To raise and support armies. But no appropriation of money for that use, shall be for a longer term than two years.

"13. To provide and maintain a navy.

"14. To make rules for the government and regulation of the land and naval forces.

"15. To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions.

"16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the states

respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress.

"17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of the government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

"18. To dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States.

"19. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or any department or officer thereof."

Congress are specially forbidden to suspend the writ of habeas corpus, unless when, in cases of rebellion or invasion, the public safety may require it; to pass bills of attainder or ex post facto laws; to lay capitation or other direct taxes in any other manner than by apportioning them among the states as the representatives are (see § 3, page 35); to lay any duty on exports; to give any preference, by commercial or revenue regulations, to the ports of one state over those of another; to impose duties on coasting vessels, or oblige them to make entry or clear in passing from one state to another.

§ 7. Congress must assemble at least once in every year. Their day of meeting is the first Monday in December, unless they by law appoint a different day.

§ 8. Each house is the judge of the elections, returns, and qualifications of its own members. A majority constitutes a quorum to do business; but a smaller number may adjourn from day to day, and is authorised to compel the attendance of absent members. Each house may determine the rules of its proceedings; punish its members for disorderly behaviour; and, with the concurrence of two-thirds, expel a member. The journals of both houses must be published, except such parts as may require secrecy; and the yeas and nays must be entered on them at the request of one-fifth of those present. Neither house, without the consent of the other, can adjourn for more than three days, nor to any other place than that in which congress is sitting.

No member of either house can, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which has been created, or the emoluments of which has been increased, during such time, and no person holding any office, can be a member of either house during his continuance in office.

§ 9. All bills for raising revenue must originate in the house of representatives; but the senate may propose or concur with amendments, as in other bills.

§ 10. No law can be passed without the concurrence of both houses. When that is obtained, it is presented to the president, who, if he approves, signs it; if not, he returns it, with his objections, for the re-consideration of congress, and it cannot in that case become a law without the concurrence of two-thirds of the members. The president must return it within ten days, otherwise it becomes a law without his approbation. Joint orders, resolutions, or votes (except on questions of adjournment) must go through the same forms.

While bills, resolutions, &c. are on their passage between the two houses, they are on paper, and under the signature of the secretary or clerk of each house respectively. After they have passed both houses, they are enrolled on parchment by the clerk of the house of representatives, or the secretary of the senate, as the bill may have originated in the one or the other house, and after enrollment they are examined by a joint committee of one from the senate, and two from the house of representatives, appointed as a standing committee for that purpose, who carefully compare the enrollment with the engrossed bills, &c. as passed in the two houses, and, correcting any errors that may be discovered, make their report forthwith to the respective houses. After examination and report, each bill, &c. is signed in the respective houses, first by the speaker of the house of representatives, then by the president of the senate. After having been thus signed, it is presented by the committee to the president of the United States, for his approbation, it being first endorsed on the back of the roll, certifying in which house it originated; which endorsement is entered on the journal of each house. The committee report the day of presentation to the president, which is also entered on the journal of each house.

When the senate and house of representatives make a joint address to the president, it is presented to him in his audience chamber by the president of the senate, in the presence of the speaker and both houses.

§ 11. The members of congress are privileged from arrest, except for treason, felony, or breach of the peace, during their

attendance at the session of their respective houses. They cannot be questioned, in any other place, for any speech or debate in either house.

§ 12. The compensation allowed to members of congress, which is fixed by law, is six dollars for every day's attendance. They likewise receive at the commencement and at the end of every session, six dollars for every twenty miles of the estimated distance, by the most usual road, from their place of residence to the seat of congress, provided such sum does not amount to more than six dollars per day, from the end of one session to the time of their taking a seat in another. In case of any member being detained by sickness on his journey, or being unable to attend in his seat after his arrival, he is still entitled to receive the daily compensation of six dollars. The speaker of the house of representatives, and the president pro tempore of the senate, are entitled to receive, in addition to their compensation as members of congress, six dollars per day during their attendance.

§ 13. A chaplain is appointed by each house, who is allowed at the rate of $500 per annum during the session.

The officers of the senate are, a secretary, who receives a salary of $2000 per annum; his principal clerk $1300, and each of his engrossing clerks $1000 per annum. The sergeant at arms, who also performs the duty of door-keeper, $950, and the assistant door-keeper 900 per annum.

The officers of the house of representatives are, the clerk of the house, who receives a salary of $2000, his principal clerk $1300, and each of his engrossing clerks $1000 per annum. The sergeant at arms $950, the door-keeper $950, and the assistant door-keeper $900 per annum.

It is the duty of the sergeant at arms to attend the house during its sitting; to execute its commands, together with all process issued by its authority.

§ 14. Nine standing committees are appointed at the commencement of each session, in the house of representatives, viz.

A committee of elections, A committee of ways and means, A committee of claims, A committee of commerce and manufactures, A committee on the public lands, A committee on the post-office and post roads, A committee for the District of Columbia,	To consist of seven members each.

A committee of revisal and unfinished business, and
A committee of accounts,
} To consist of three members each.

It is the duty of the committee of elections, to examine and report upon the certificates of election or other credentials of the members, and to take into their consideration all such petitions and other matters touching elections and returns, as may be referred to them by the house.

It is the duty of the committee of ways and means to take into consideration all such reports of the treasury department, and all such propositions relative to the revenue, as may be referred to them by the house; to inquire into the state of the public debt, of the revenue and of the expenditures, and to report, from time to time, their opinion thereon; to examine into the state of the several public departments, and particularly into the laws making appropriations of monies, and to report whether the monies have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of their officers.

It is the duty of the committee of claims to take into consideration all petitions and matters touching claims and demands on the United States, as shall be referred to them by the house, and to report their opinion thereon, together with such propositions for relief as to them shall seem expedient.

It is the duty of the committee of commerce and manufactures, to take into consideration all such petitions and matters touching the commerce and manufactures of the United States, as may be referred to them by the house, and to report, from time to time, their opinion thereon.

It is the duty of the committee on the public lands to take into consideration all petitions and matters respecting the lands of the United States that may be referred to them by the house; and to report their opinion thereon, with such propositions for relief as to them shall seem expedient.

It is the duty of the committee on the post-office and post-roads to take into consideration all such petitions and matters touching the post-office and post-roads as may be referred to them by the house, and to report their opinion thereupon, together with such propositions relative thereto, as to them shall seem expedient.

It is the duty of the committee for the district of Columbia to take into consideration all such petitions, or things, touching the district, as shall be referred to them by the house, and to report their opinion thereon, together with such propositions relative thereto, as to them shall seem expedient.

It is the duty of the committee of revisal and unfinished business to examine and report what laws have expired, or are near expiring, and require to be revived or further continued; also to examine and report, from the journal of the last session, all such matters as were then depending and undetermined.

It is the duty of the committee of accounts to superintend and controul the expenditure of the contingent fund of the house, and to audit and settle all accounts which may be charged thereon; and also to audit the accounts of the members for their travel to and from the seat of government, and their attendance in the house.

All committees are appointed by the speaker unless otherwise specially directed by the house, in which case they are appointed by ballot.

§ 15. When any vacancy happens in the representation of any state in the house of representatives, the executive authority of the state issues a writ of election to fill such vacancy. A vacancy in the senate is filled by the state legislature; during their recess, temporary appointments are made by the governor of the state until the next meeting of the legislature, who then fill the vacancy.

§ 16. The judicial power of the United States is vested in a supreme court, and in the district and circuit courts.

§ 17. The judicial power extends to all cases, in law and equity, arising under the constitution and laws of the United States, and treaties made under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States are a party, to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

§ 18. All the judges of the United States hold their offices during good behaviour. Their salaries cannot be diminished during their continuance in office.

§ 19. The supreme court consists of a chief justice and six associate justices, any four of whom are a quorum. It holds one session annually, at the city of Washington, on the first Monday in February.

§ 20. The supreme court has exclusive jurisdiction of all controversies of a civil nature, where a state is a party, except between a state and its citizens; and except also between a state and citizens of other states, or aliens, in which latter case it has

original but not exclusive jurisdiction. It has exclusively all such jurisdiction of suits or proceedings against ambassadors or other public ministers, or their domestics, or domestic servants, as a court of law can have or exercise consistently with the law of nations; and original, but not exclusive jurisdiction, of all suits brought by ambassadors or other public ministers, or in which a consul or vice-consul is a party. The supreme court also has appellate jurisdiction from the circuit courts, and courts of the several states, in certain cases. It also has power to issue writs of prohibition to the district courts, when proceeding as courts of admiralty and maritime jurisdiction, and writs of *mandamus*, in cases warranted by the principle and usages of law, to any courts appointed, or persons holding office, under the authority of the United States.

§ 21. The salary of the chief justice is $ 4000, and that of each of the associate justices $ 3500 per annum.

§ 22. The United States is divided into 20 districts, each of the states forming one district except Massachusetts and Tennessee, which are each divided into two; the former into Massachusetts and Maine, the latter into East and West Tennessee. There is a district court consisting of one judge for the two districts of East and West Tennessee; a district court consisting of two judges for the district of New York; and a district court consisting of one judge for each of the other districts. In most of the districts, there are four courts held annually, generally at the two principal places in the district alternately. In each of the districts of Pennsylvania and Maryland, the courts are held at only one place, namely, Philadelphia and Baltimore.

§ 23. The district courts have, exclusively of the courts of the several states, cognizance of all crimes and offences that are cognizable under the authority of the United States, committed within their respective districts, or upon the high seas; where no other punishment than whipping, not exceeding thirty stripes, a fine not exceeding 100 dollars, or a term of imprisonment not exceeding six months, is to be inflicted; and have also exclusive original cognizance of all civil causes of admiralty and maritime jurisdiction, including all seizures under laws of impost, navigation, or trade of the United States, where the seizures are made on waters which are navigable from the sea by vessels of ten or more tons burthen, within their respective districts as well as upon the high seas; saving to suitors, in all cases, the right of a common law remedy, where the common law is competent to give it. They have also exclusive original cognizance of all seizures on land, or waters other than navigable, and of all suits for penalties and forfeitures incurred

under the laws of the United States. They also have cognizance, concurrent with the courts of the several states, or the circuit courts, as the case may be, of all causes where an alien sues for a tort only in violation of the law of nations or a treaty of the United States. They also have cognizance, concurrent with the courts of the states, of all suits at common law where the United States sue, and the matter in dispute amounts, exclusive of costs, to one hundred dollars. They have also cognizance, exclusively of the courts of the several states, of all suits against consuls or vice-consuls, except for offences greater than those above mentioned.

§ 24. A salaries of the district judges are as follow: in Vermont $800; in Maine, New Hampshire, Rhode Island, Connecticut, and Ohio, $1000; in New Jersey and Delaware $1200; in Kentucky, Tennessee, North Carolina, and Georgia, $1500; in Massachusetts, New York, Pennsylvania, and Maryland, $1600; in Virginia and South Carolina, $1800; and in Louisiana $2000 per annum.

§ 25. A circuit court consists of a justice of the supreme court and the district judge. The United States is divided into seven circuits, as follow: The first district includes the districts of New Hampshire, Massachusetts, and Rhode Island; the second those of Vermont, Connecticut, and New York; the third those of New Jersey and Pennsylvania; the fourth those of Maryland and Delaware; the fifth those of Virginia and North Carolina; the sixth those of South Carolina and Georgia; the seventh those of Kentucky, Tennessee, and Ohio. There is no circuit court in the districts of Louisiana and Maine. The district courts of those districts have jurisdiction of all causes cognizable in circuit courts, except in cases of appeals and writs of error, which in Louisiana lie to the supreme court, and in Maine to the circuit court of Massachusetts. The circuit courts are held twice a year in each district.

§ 26. The circuit courts have original cognizance, concurrent with the courts of the several states, of all suits of a civil nature at common law or in equity, where the matter in dispute exceeds, exclusive of costs, the sum or value of five hundred dollars, and the United States are plaintiffs, or petitioners; or an alien is a party; or the suit is between a citizen of the state where the suit is brought, and a citizen of another state. They have exclusive cognizance of all crimes and offences cognizable under the authority of the United States, with a few exceptions, and concurrent jurisdiction with the district courts, of the crimes and offences cognizable therein. No person can be arrested in one district for trial in another, in any civil action before a circuit or district court; and no civil suit can be brought before either

court against an inhabitant of the United States, by any original process in any other district than that whereof he is an inhabitant, or in which he shall be found at the time of serving the writ; nor can any district or circuit court have cognizance of any suit to recover the contents of any promissory note or other chose in action in favour of an assignee, unless a suit might have been prosecuted in such court to recover the contents if no assignment had been made, except in cases of foreign bills of exchange. The circuit courts have also appellate jurisdiction from the district courts under certain regulations and restrictions. In suits commenced in state courts, against an alien, or a citizen of another state, if the matter in dispute exceeds $500, the defendant may remove the cause for trial into the circuit court. And in any action commenced in a state court, where the title of land is concerned, whose value exceeds $500, if either party claims under a grant from a state other than that in which the suit is pending, the cause may be removed for trial to the circuit court, although the parties be citizens of the same state.

§ 27. The attorney general of the United States is the public prosecutor before the supreme court. It is likewise his duty to give his advice and opinion upon questions of law, when required by the president. He may also be consulted by the heads of departments, touching any matters that may concern those departments. He has a salary of $3000 per annum.

§ 28. The public prosecutors before the circuit and district courts are the district attorneys, of whom there is one in each district. These attorneys are compensated by fees, which are taxed by the respective courts. In Louisiana the district attorney receives an additional compensation of $600 per annum from the United States; there is also an allowance of $200 per annum to the attorney of each of the districts except Massachusetts, New York, Pennsylvania, Maryland, and South Carolina.

§ 29. There is a marshal for each district, with the powers of a sheriff, who attends both the district and circuit courts. His fees are regulated by law. The marshals for the districts of Maine, New Hampshire, Vermont, New Jersey, North Carolina, Kentucky, Ohio, East Tennessee, West Tennessee, and Louisiana, have each an additional compensation of $200 per annum from the United States.

§ 30. There is a clerk of court in each district, who attends both district and circuit courts. Their fees and compensations for attending court, and for travelling to attend circuit courts, are fixed by law.

§ 31. The clerks of courts are appointed by the courts, the attorneys and marshals by the president, by whom they are removeable at pleasure.

§ 32. Jurors and witnesses in the United States' courts are allowed 1 dollar 25 cents per day, and five cents per mile for travelling to and from their respective places of abode.

The conclusion of the Review of the Political Institutions of the United States will be given in the commencement of the third volume. This will contain an account of the following institutions, viz. the *army*, including a list of the general staff, the departments of the adjutant-general, inspector-general, paymaster-general, and quartermaster-general, the ordnance and hospital departments, and the duties of the respective officers as to the instruction of the troops, military correspondence, the selection of places of encampment, and posting guards; the mustering and inspecting the regulars and militia detachments, the regulation of the police of the camp and of the march, the opening and repairing roads and constructing of bridges for the passage of the army, &c. &c. the formation of the corps of engineers, and of the regiments of artillery, dragoons, riflemen, infantry, and rangers; the militia and volunteer corps; the rules and regulations of the army, as to rank, promotion, uniform, &c. An account of the arsenals, magazines, and armories of the United States. The navy and marine corps. Navy regulations. The navy pension fund. The light-house establishment. The regulations of privateers and letters of marque. The regulation of ships in the merchant service. The revenues of the United States, with statements of the receipts and expenditures from the establishment of the federal constitution. The rise and progress of the public debt. The sinking fund. The land-offices and surveyor-general's department. The post-office and post-roads, &c. &c. To conclude with a review of the nature and form of government in the District of Columbia.

HISTORY

OF THE

PROCEEDINGS OF CONGRESS.

12th CONGRESS—2d SESSION.

CHAPTER I.

§ 1. Meeting of Congress. § 2. President's message. § 3. Expedition of General Hull. § 4. War on the ocean. § 5. Refusal of the militia. § 6. Pacific advances to Great Britain. § 7. Armistice. § 8. Correspondence with admiral Warren. § 9. Subjects recommended to the consideration of congress. § 10. Merchants' bonds. § 11. State of the treasury. § 12. Conclusion.

§ 1. ON Monday the 2d of November, 1812, being the day fixed by law, congress convened at Washington City. A quorum of the house of representatives appeared that day, but the requisite number of the senate did not meet till the 3d, when a joint committee from both houses waited on the president, to inform him that they were ready to receive his communication.

§ 2. On the following day he as usual transmitted his introductory message, accompanied with documents containing copies of letters from the secretary of state, authorizing Mr. Russell to conclude an armistice with the British government; Mr. Russell's correspondence with lord Castlereagh upon this subject; a correspondence between admiral Warren and the secretary of state; a previous correspondence between Mr. Russell and lord Castlereagh on the subject of the repeal of the orders in council; and Mr. Erving's letter to the secretary of state, inclosing a correspondence with the Danish minister of foreign affairs. In subsequent messages the president communicated further information relative to the pacific advances of the American government, and the correspondence between the department of war and the governors of Massachusetts and Connecticut, on the subject of the militia. In taking a view of this introductory message, we shall, for the sake of perspicuity, class the whole of these papers together.

§ 3. After congratulations on the unusual degree of health enjoyed throughout the country, the abundance of the harvest, and the successful cultivation of other branches of industry, the

president adverts to the unfortunate issue of the expedition under general Hull, the causes of which, he observes, will be investigated by a military tribunal. This leads to observations on the hostile employment of the savages by the British, which he contrasts with the benevolent policy of the United States, which "invariably recommended peace, and promoted civilization, among that wretched portion of the human race."

"The misfortune at Detroit," he continues, "was not, however, without a consoling effect. It was followed by signal proofs that the national spirit rises according to the pressure on it. The loss of an important post, and of the brave men surrendered with it, inspired every where new ardour and determination. In the states and districts least remote, it was no sooner known, than every citizen was ready to fly with his arms, at once to protect his brethren against the blood-thirsty savages let loose by the enemy on an extensive frontier, and to convert a partial calamity into a source of invigorated efforts."

The invasion of Canada from Detroit, it appears, was undertaken as well for the purpose of intercepting the hostile influence of Great Britain over the savages, and obtaining the command of lake Erie, as to co-operate with the forces employed against other parts of Canada. As soon as its unfortunate termination was known, measures were taken to provide a naval force on the lakes superior to that of the enemy.

§ 4. The message next notices the attack upon Queenstown, and the successful commencement of the war on the ocean, by the capture of the Guerriere, and the activity of our private cruizers.

§ 5. The refusal of the militia by the governors of Massachusetts and Connecticut, "founded upon a novel and unfortunate exposition of the provisions of the constitution," forms another topic of the message. From the correspondence upon this subject, it appears, that by a circular letter from the war department, dated April 15, 1812, the executives of the several states were called upon to organize, and hold in readiness to march at a moment's warning, their respective quotas of 100,000 militia authorized by the act of April 10th, 1812. On the 12th of June, the secretary of war requested governor Strong of Massachusetts to order into the service of the United States, on the requisition of major-general Dearborn, such part of the quota of Massachusetts as he might deem necessary for the defence of the sea coast. On the 22d, general Dearborn called on the governor for 14 companies of artillery and 27 companies of infantry, for the defence of the ports and harbours of the state and the harbour of Newport, at the same time communicating

information of the declaration of war. On the 26th, not having received notice that measures had been taken for calling the militia into service, the general again addressed governor Strong, soliciting such information on the subject as the urgency of the case demanded. He was answered, that governor Gerry (his predecessor in office) had, on the 25th of April, ordered 10,000 men to be detached, but that the returns of those detachments had not come to hand, except in a very few instances. On the 21st of July, governor Strong was informed by the secretary at war, that the arrangement of the militia before communicated was preparatory to the march of the regular troops to the northern frontier. That the exigencies of the service required, and orders had accordingly been given to major-general Dearborn, to move the regular troops to that frontier, leaving a sufficient number to man the guns in the garrisons on the seaboard. That the danger of invasion, which existed at the time of issuing the order of the president, increased, and that he was specially directed by the president, to urge the consideration, as requiring the necessary order to be given for the immediate march of the militia to their respective posts.

In answer to the communication from the war department, the governor stated, that the people of that state appeared to be under no apprehension of an invasion. In some places they had applied for arms and ammunition, but they had expressed no desire that any part of the militia should be called out for their defence, and in some cases he had been assured that such a measure would be disagreeable to them. That it could hardly be supposed, that if the state had been considered by the president in great danger of invasion, the troops would have been called thence to carry on offensive operations in a distant province. However, as it was understood that the governor of Nova Scotia had by proclamation forbid any incursions or depredations upon our territories, and as an opinion generally prevailed that the governor had no authority to call the militia into actual service, unless one of the exigencies contemplated by the constitution existed, he had thought it expedient to call the council together, and having laid before them the letter from the war department and those from general Dearborn, had requested their advice on the subject.

The council advised, that they were unable, from a view of the constitution of the United States, and of those letters, to perceive that any exigency existed which could render it advisable to comply with the requisition. But as upon important questions of law, and upon solemn occasions, the governor and council have authority to require the opinion of the justices

of the supreme judicial court, it was advisable to request their opinion on the present occasion, whether the governors of the several states have a right to determine whether the exigencies contemplated by the constitution exist, and whether, when they do exist, the militia in the service of the United States can be lawfully commanded by any officer but of the militia, except by the president of the United States.

The judges, on being consulted, expressed their opinion, that, as the power of judging of the exigencies was not delegated to the United States by the federal constitution, nor prohibited by it to the states, it was reserved to the states respectively; and that, from the nature of the power, it must be exercised by those with whom the states have respectively entrusted the chief command of the militia. That it is the duty of these commanders to execute this important trust agreeably to the laws of their several states, without reference to the laws or officers of the United States, in all cases except those specially provided for in the federal constitution. They must, therefore, determine when either of the special cases exist, obliging them to relinquish the execution of this trust, and to render themselves and the militia subject to the command of the president. A different construction, giving to congress the right to determine when these special cases exist, authorizing them to call forth the whole of the militia, and taking them from the commanders in chief of the several states, and subjecting them to the command of the president, would place all the militia, in effect, at the will of congress, and produce a military consolidation of the states, without any constitutional remedy, against the intentions of the people when ratifying the constitution. No inconveniences could reasonably be presumed to result from this construction, as these exigencies are of such a nature that the existence of them can be easily ascertained by, or made known to the commander in chief of the militia, and, when ascertained, the public interest will produce prompt obedience to the acts of congress. With respect to the question whether the militia could be lawfully commanded by any officer appointed by the president, the judges expressed their opinion, that the congress may provide laws for the government of the militia when in actual service, but to extend this power to the placing them under the command of an officer not of the militia, except the president, would render nugatory the provision, that the militia are to have officers appointed by the states.

The governor further stated, that by the request of the inhabitants on the eastern boundary of Passamaquoddy, he had called out three companies of militia for their protection from

unauthorized predatory incursions of lawless people on the borders; and that two of the companies would be stationed at Eastport and one at Robinston, until the president should otherwise direct. The governor disclaims the intention of officiously interfering in the measures of the general government, but thinks, that if the president was fully acquainted with the situation of the state, he would have no wish to call the militia into service in the manner proposed by general Dearborn.

"It is well known," the governor says, "that the enemy will find it difficult to spare troops sufficient for the defence of their own territory, and predatory incursions are not likely to take place in this state; for at every point, except Passamaquoddy, which can present no object to those incursions, the people are too numerous to be attacked by such parties as generally engage in expeditions of that kind.

"General Dearborn proposed that the detached militia should be stationed at only a few of the ports and places on the coast: from the rest a part of their militia were to be called away. This circumstance would increase their danger: it would invite the aggressions of the enemy, and diminish their power of resistance.

"The whole coast of Cape Cod is exposed as much as any part of the state to depredations. Part of the militia must, according to this detaching order, be marched from their homes, and yet no place in the old colony of Plymouth is assigned to be the rendezvous of any of the detached militia.

"Every harbour or port within the state has a compact settlement, and generally the country around the harbours is populous. The places contemplated in general Dearborn's specification as the rendezvous of the detached militia, excepting in one or two instances, contain more of the militia than the portion of the detached militia assigned to them. The militia are well organized, and would undoubtedly prefer to defend their firesides in company with their friends under their own officers, rather than to be marched to some distant place, while strangers might be introduced to take their places at home."

"Against predatory incursions the militia of each place would be able to defend their property, and in a very short time they would be aided, if necessary, by the militia of the surrounding country. In case of a more serious invasion, whole brigades or divisions could be collected seasonably for defence. Indeed, considering the state of militia in this commonwealth, I think there can be no doubt that detaching a part of it, and distributing it into small portions, will tend to impair the defensive power."

The governor of Connecticut grounded his refusal of the militia upon similar reasons to those of the governor of Massachusetts. He did not conceive that any of the contingencies enumerated in the constitution existed. "The war which has commenced, and the cruizing of a hostile fleet on our coast, is not invasion, and the declaration of the president, that there is imminent danger of invasion, is evidently a consequence drawn from the facts now disclosed, and is not in my opinion warranted by those facts." He trusted that the general government would speedily provide an adequate force for the security and protection of the sea coast, and in the mean time he had issued the necessary orders to the general officers commanding the militia in that quarter to be in readiness to repel any invasion which might be attempted upon that portion of the state, and to co-operate with such part of the national forces as should be employed for that purpose.

The president, in his observations upon this correspondence, remarks, "that if the authority of the United States to call into service and command the militia for the public defence can be thus frustrated, even in a state of declared war, and of course under apprehensions of invasion preceding war, they are not one nation for the purpose most of all requiring it; and that the public safety may have no other resource than in those large and permanent military establishments which are forbidden by the principles of our free government, and against the necessity of which the militia were meant to be a constitutional bulwark."

§ 6. The message next adverts to the propositions for an armistice and a peace with Great Britain. Immediately after the declaration of war, Mr. Russell, our charge d'affaires at London, was instructed to lay before the British government "the terms on which its progress might be arrested, without awaiting the delays of a formal and final pacification." These terms were, "that the orders in council should be repealed as they affected the United States, without a revival of blockades violating acknowledged rules; and that there should be an immediate discharge of American seamen from British ships, and a stop to impressment from American ships." As an inducement to the British government to discontinue the practice of impressing from our vessels, Mr. Russell was instructed to give assurance that a law would be passed (to be reciprocal) to prohibit the employment of British seamen both in public and private American vessels, and to urge that such an arrangement would be much more efficacious in securing to Great Britain her seamen than impressment, independent of all objections to it.

The repeal of the orders in council on the 23d of June, having removed one of the obstacles to pacification, it was hoped that beneficial effects would have resulted from this proposition of the American government. The British minister, however, in his answer to Mr. Russell's note, declared that the prince regent considered it, on various grounds, as absolutely inadmissible, and expressed his surprise, "that as a condition preliminary even to a suspension of hostilities, the government of the United States should have thought fit to demand, that the British government should desist from its ancient and accustomed practice of impressing British seamen from the merchant ships of a foreign state, simply on the assurance that a law shall hereafter be passed, to prohibit the employment of British seamen in the public or commercial service of that state." The British government is however, as heretofore, declared to be ready "to receive and discuss," any proposition to accomplish the object of impressment; "but they cannot consent to suspend the exercise of a right upon which the naval strength of the empire mainly depends, until they are fully convinced that means can be devised, and will be adopted, by which the object to be obtained by the exercise of that right can be effectually secured." Mr. Russell was likewise informed that the British admiral on the American station had been authorized to propose to the government of the United States "an immediate and reciprocal revocation of all hostile orders, with the tender of giving full effect, in the event of hostilities being discontinued, to the provisions of the [order of revocation] upon the conditions therein specified."

By a subsequent letter from the secretary of state, which was not received until after the rejection of the above proposition, Mr. Russell was instructed, that it was not particularly necessary that the several points should be specially provided for in the convention stipulating the armistice. "A clear and distinct understanding with the British government on the subject of impressment, comprising in it the discharge of the men already impressed, and on future blockades, if the orders in council are revoked, is all that is indispensable. The orders in council being revoked, and the proposed understanding on the other points, that is, on blockades and impressment, being first obtained, in a manner, though informal, to admit of no mistake or disagreement hereafter, the instrument providing for the armistice may assume a general form, especially if more agreeable to the British government."

The contents of this letter appearing to Mr. Russell to do away the objection that had been urged to his former proposi-

tion, that the British government could not desist from the practice of impressing from American vessels simply on the assurance that a law should hereafter be passed to prohibit the employment of British seamen; immediately on its receipt he called on lord Castlereagh, to communicate to him the powers under which he acted. Finding that the British minister was out of town, he transmitted an official note on the subject, accompanied with a private letter, offering any explanation which might be necessary. A few days after, Mr. Russell had an interview with lord Castlereagh, at which he put into his hands the instructions from the secretary of state. A very interesting conversation took place at this interview, in the course of which lord Castlereagh observed, that the question of impressment was attended with difficulties of which neither Mr. Russell nor the American government appeared to be aware. "Indeed," he continued, "there has evidently been much misapprehension on this subject, and an erroneous belief entertained that an arrangement, in regard to it, has been nearer an accomplishment than the facts will warrant. Even our friends in congress, I mean (observing perhaps some alteration in Mr. Russell's countenance) those who were opposed to going to war with us, have been so confident in this mistake, that they have ascribed the failure of such an arrangement solely to the misconduct of the American government. This error probably originated with Mr. King, for, being much esteemed here, and always well received by the persons then in power, he seems to have misconstrued their readiness to listen to his representations, and their warm professions of a disposition to remove the complaints of America, in relation to impressment, into a supposed conviction on their part of the propriety of adopting the plan which he had proposed. But lord St. Vincent, whom he might have thought he had brought over to his opinions, appears never for a moment to have ceased to regard all arrangements on the subject to be attended with formidable, if not insurmountable obstacles. This is obvious from a letter which his lordship addressed to sir William Scott at the time." Here lord Castlereagh read a letter, contained in the records before him, in which lord St. Vincent states to sir William Scott, the zeal with which Mr. King had assailed him on the subject of impressment, confesses his own perplexity and total incompetency to discover any practical project for the safe discontinuance of that practice, and asks for council and advice. "Thus you see," proceeded lord Castlereagh, "that the confidence of Mr. King on this point was entirely unfounded."

A day or two after this conversation took place, Mr. Russell received a note from the British minister, in which he stated, that the prince regent did not feel himself enabled to depart from his former decision.

§ 7. In the beginning of August the repeal of the orders in council was communicated to the American government by the British authorities in Canada and Nova Scotia, and an armistice by land was proposed by them, to be accompanied by a suspension of the condemnation of prizes, to await the decision of both governments. To this proposal the president declined to accede. The following are stated as the principal reasons which produced this decision.

"1st. The president has no power to suspend judicial proceedings on prizes. A capture, if lawful, vests a right, over which he has no controul. Nor could he prevent captures otherwise than by an indiscriminate recal of the commissions granted to our privateers, which he could not justify under existing circumstances.

"2d. The proposition is not made by the British government, nor is there any certainty that it would be approved by it. The proposed arrangement, if acceded to, might not be observed by the British officers themselves, if their government, in consequence of the war, should give them instructions of a different character, even if they were given without a knowledge of the arrangement.

"3d. No security is given, or proposed, as to the Indians, nor could any be relied on. They have engaged in the war on the side of the British government, and are now prosecuting it with vigour, in their usual savage mode. They can only be restrained by force, when once let loose, and that force has already been ordered out for the purpose.

"4th. The proposition is not reciprocal, because it restrains the United States from acting where their power is greatest, and leaves Great Britain at liberty, and gives her time to augment her forces in our neighbourhood.

"5th. That as a principal object of the war is to obtain redress against the British practice of impressment, an agreement to suspend hostilities, even before the British government is heard from on that subject, might be considered a relinquishment of that claim.

"6th. It is the more objectionable, and of the less importance, in consideration of the instructions heretofore given Mr. Russell, which, if met by the British government, may have already produced the same result in a greater extent and more satisfactory form."

§ 8. Early in October the expected communication was received by government from the British admiral on the American station, admiral Warren. In this he stated that he was commanded to propose the immediate cessation of hostilities on the ground of the repeal of the orders in council, and to arrange with government as to the revocation of the laws interdicting the ships of war and the commerce of Great Britain from the harbours and waters of the United States, intimating, that if that proposition was not acceded to, the orders in council, being only conditionally repealed, would be revived against the commerce of the United States.

In the answer of the American government it was stated, that experience had evinced that no peace could be durable without an adjustment of the subject of impressment. That an armistice could not be agreed to without a clear and distinct understanding upon this subject. But that if there was no objection to an accommodation of the difference relating to impressment other than the suspension of the British claim during the armistice, there could be none to proceeding without the armistice to an immediate discussion and arrangement of an article on that subject; and that this great question being satisfactorily adjusted, the way would be open for an armistice, or any other course leading to a general pacification. Thus ended the correspondence on this subject.

§ 9. The message next takes a cursory view of the relations of the United States with other foreign nations. The state of the military and naval establishments is strongly pressed on the earliest attention of Congress, together with a revision of the militia laws. The subject of British licenses and improper intercourse with the enemy is likewise recommended to their attention.

§ 10. A number of American vessels, which were in England when the revocation of the orders in council took place, were laden with British manufactures, under the impression that the non-importation act would immediately cease to operate. These vessels were seized by the collectors on their arrival in the United States, and some of them were even captured at sea, and sent in as prizes by the American privateers. This subject was recommended by the president to the consideration and decision of congress, it not appearing to him proper to exercise, "on unforeseen cases of such magnitude, the ordinary powers vested in the treasury department to mitigate forfeitures, without previously affording to congress an opportunity of making on the subject such provision as they may think proper."

§ 11. The receipts into the treasury, during the year ending September 30, are stated to have exceeded sixteen and a half millions of dollars, including near $5,850,000 received on account of the loan of eleven millions. These receipts were sufficient to discharge all the demands on the treasury to that date, including a necessary reimbursement of near three millions of the principal of the public debt. The residue of the loan, together with the current revenue, are stated to be sufficient to defray the expenses of the remainder of the year, and the duties on the late unexpected importations of British manufactures to render the revenue of the ensuing year more productive than could have been anticipated.

§ 12. The president concludes his message as follows: "The situation of our country, fellow citizens, is not without its difficulties; though it abounds in animating considerations, of which the view here presented of our pecuniary resources is an example. With more than one nation, we have serious and unsettled controversies; and with one, powerful in the means and habits of war, we are at war. The spirit and strength of the nation are nevertheless equal to the support of all its rights, and to carry it through all its trials. They can be met in that confidence. Above all, we have the inestimable consolation of knowing, that the war in which we are actually engaged is a war neither of ambition nor of vain glory; that it is waged, not in violation of the rights of others, but in the maintenance of our own; that it was preceded by a patience without example, under wrongs accumulating without end; and that it was finally not declared until every hope of averting it was extinguished, by the transfer of the British sceptre into new hands clinging to former councils; and until declarations were reiterated to the last hour, through the British envoy here, that the hostile edicts against our commercial rights and our maritime independence would not be revoked; nay, that they could not be revoked, without violating the obligations of Great Britain to other powers, as well as to her own interests. To have shrunk, under such circumstances, from manly resistance, would have been a degradation blasting our best and proudest hopes: it would have struck us from the high rank, where the virtuous struggles of our fathers had placed us, and have betrayed the magnificent legacy which we hold in trust for future generations. It would have acknowledged, that on the element which forms three-fourths of the globe we inhabit, and where all independent nations have equal and common rights, the American people were not an independent people, but colonists and vassals. It was at this moment, and with such an alterna-

tive, that war was chosen. The nation felt the necessity of it, and called for it. The appeal was accordingly made, in a just cause, to the just and all-powerful Being who holds in his hand the chain of events and the destiny of nations. It remains only, that, faithful to ourselves, entangled in no connections with the views of other powers, and ever ready to accept peace from the hand of justice, we prosecute the war with united counsels, and with the ample faculties of the nation, until peace be so obtained, and as the only means, under the divine blessing, of speedily obtaining it."

CHAPTER II.

§ 1. Prohibition of exports. § 2. Merchants' bonds. § 3. Seamen's bill. § 4. Certificates of registry. § 5. Increase of army pay. § 6. Twelve-months men. § 7. Organization of the staff. § 8. Army supplies. § 9. Expresses from the seat of war. § 10. Classification of the militia. § 11. Increase of volunteer and militia pay. § 12. Report on the naval establishment. § 13. Increase of the navy. § 14. Privateers. § 15. Regulation of prize causes. § 16. Torpedoes. § 17. Retaliation.

§ 1. The first business of importance which occupied congress after the appointment of the usual standing and select committees, was a motion submitted by Mr. Harper, in the house of representatives, on the 6th of November, with closed doors, as follows:

Resolved, that the committee of commerce and manufactures be instructed to enquire into the expediency of prohibiting by law the exportation of flour and other bread stuffs from the United States and the territories thereof, and that they report by bill or otherwise.

This motion was the same day negatived by a large majority.

On the first of December Mr. Newton offered a resolution to the house, going to instruct the committee of commerce and manufactures to enquire into the propriety of restricting the export of provision and naval stores, so as to prevent those articles from being carried to the ports of the enemy. This resolution shared the fate of the former, being negatived by a majority of one vote. On the following day Mr. Harper moved a reconsideration of the resolution, on the ground of the thinness of the house the day before. The yeas and nays were called for, when, it being found that the votes were equally divided, the casting vote

was given by the speaker in the negative, and the house consequently refused to consider the resolution.

§ 2. The next important topic that occupied the attention of congress was that of the merchants' bonds. From the singularity of the situation in which the merchants were placed, and the great amount at stake, upwards of eighteen millions of dollars, this subject excited an unusual degree of interest, not only in congress, but throughout the union. In order to present a clear view of the subject, it will be necessary to take a review of the acts of the United States as they respect Great Britain and France for the last three years. In doing this, we shall be as concise as perspicuity will allow.

On the first of May, 1810, a law was passed forbidding British and French armed vessels from entering the waters of the United States, on account of their numerous violations of our neutral commerce. The same law enacted, that, "In case either Great Britain or France shall, before the third day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the president of the United States shall declare by proclamation, and if the other nation shall not in three months thereafter so revoke or modify her edicts in like manner," then certain sections of an expired law interdicting commercial intercourse with these nations were to be revived in relation to the nation refusing to revoke her obnoxious edicts. These sections forbid, under penalty of forfeiture of vessel and cargo, the importing into the United States, or the putting on board any vessel in a foreign port with intent thus to import, any merchandize of British or French growth or manufacture, from whatever port imported, and any merchandize whatever from a British or French port.

On the 5th of August following, the French minister of foreign relations wrote to Mr. Armstrong, then American minister at the court of France, that "the Berlin and Milan decrees are revoked, and that from the first of November they will cease to be in force, it being understood, that, in consequence of this declaration, the English shall revoke their orders in council, and renounce the new principles of blockade which they have attempted to establish, or that the United States, conformably to the act* you have just communicated, shall cause their rights to be respected by the English."

In pursuance of the powers vested in him by the law of the the first of May, the president, in consequence of this declaration of the French government, issued a proclamation on the

* Of the first of May, 1810.

2d of November, declaring the Berlin and Milan decrees to be repealed. This proclamation was accompanied by a circular from the treasury department to the collectors of the customs, ordering that, unless they should be officially notified, by the treasury department, before the 2d of February, of the revocation or modification of the British edicts violating the neutral commerce of the United States, they should proceed to carry into effect the law prohibiting the entrance of British vessels, and the importation of articles of the growth, produce, or manufacture of Great Britain.

On the meeting of congress, memorials were presented to them from most of the mercantile cities, stating the peculiar hardships which would result to the merchants by enforcing the non-intercourse with Great Britain so early as the second of February, and stating that orders had been sent for goods previous to the issuing of the president's proclamation, which would not arrive till after that date, and of course would be liable to seizure and condemnation. For the relief of these cases an act was passed on the second of March, 1811, exempting from forfeiture all vessels which should have left a British port prior to the second of February. The same act provided, that in case Great Britain should so revoke or modify her edicts as that they should cease to violate the neutral commerce of the United States, the president should declare the fact by proclamation, from the date of which all restrictions should cease. No other evidence, however, of the revocation was to be admitted except the proclamation. A great amount of property was relieved from confiscation by this act, but it did not operate equally. A number of vessels, finding they could not reach their destined ports in America previous to the second of February, altered their course for some of the British dependencies in America, where the goods were landed. These goods, of course, were excluded from the benefit of the extension granted by congress, and were stored until some arrangements should take place between Great Britain and the United States.

On the 18th of June, 1812, war was declared by the United States against Great Britain. On the 23d of the same month, an order in council was issued by the British government, revoking her hostile edicts so far as related to the United States, subject, however, to certain specified conditions. On the promulgation of this order a great number of shipments were made on board of American vessels in Great Britain, most of them in conformity with previous orders from merchants in America to their correspondents in England to make such shipments immediately on the revocation of the orders in council, on the presump-

tion that the proclamation of the president would immediately follow. On the 30th of July, the news of the declaration of war reached England, and an embargo was immediately laid on American vessels. On the ensuing day, however, they were by order in council permitted to proceed to the United States with cargoes of British merchandise, being for that purpose provided with licenses protecting them, notwithstanding existing hostilities, from capture by British cruizers. On their arrival in the United States these vessels were seized and libelled by the collectors, pursuant to instructions from the treasury department.

After the declaration of war, most of the goods which had been carried into the British dependencies on account of not being able to reach the United States before the 2d of February, 1811, were imported, and seized in like manner.

The committee of ways and means, to whom the subject had been referred by the house of representatives, made a report on the 25th of November, on the subject of the direct importations from Great Britain and Ireland. This report was accompanied by a correspondence with the secretary of the treasury; by a detailed examination of committees of merchants from Boston, New York, Philadelphia, and Baltimore, and affidavits and letters from a number of other merchants; and by a statement made by Mr. Russell to the committee.

The secretary stated, that however reasonable the expectation of the discontinuance of the non-importation act might have been, yet as not only the act had made the president's proclamation the only evidence of the fact, but that the restrictions were to cease, not from the date of the revocation of the orders in council, but from the date of the proclamation; that the act to put merchandize on board a vessel with intent to import was forbidden by those restrictions, and that (all the merchandize having been thus laden, either prematurely and before a proclamation could in point of time be issued by the president, or after the knowledge of war) all the shipments were therefore made in direct contravention of an existing provision; the collectors were therefore instructed to seize and libel all such vessels and cargoes without discrimination. No exception was made with respect to vessels captured and sent in by American privateers, because, if American property, their right to make prizes was by law confined to enemy's property, and whether American or enemy's, the forfeiture to the United States had been incurred from the date of the shipment, and could not be superseded by a subsequent capture. Instructions to prevent any interference in that respect by either public or private armed vessels were also issued by the president; such interference being consider-

ed wholly unnecessary, since the vessels from England were of their own accord coming into the ports of the United States. It appears, however, that in some cases the owners of privateers contested a prior claim to forfeiture of the United States, and those cases, of course, were before the courts.

A considerable diversity took place in different states with respect to the disposal of the goods thus seized. The district attorneys had been instructed by the comptroller of the treasury, previous to the war, to oppose every motion of the claimants of prohibited merchandize for its restoration on giving bond for its appraised value, on the grounds of such restoration being contrary both to the spirit and letter of the non-importation act, the policy and intention of which was to shut the door, as effectually as possible, against the introduction of British manufactures, the exclusion of which might be totally defeated by an opposite construction, as the enhanced value of the British commodity, arising from a general scarcity, might make it, in most cases, the interest of the importer to forfeit his bond. It appearing, however, that the judges of some of the most commercial districts, notwithstanding the opposition on the part of the United States, continued to order the restoration of the British merchandize; no appeal being practicable, since the orders were immediately executed; and the commercial interest of those districts where the restoration was refused being deeply affected by the want of uniformity in the decisions, the comptroller authorized the district attorneys to withdraw their opposition in all cases of bona-fide American property.

The secretary, in conclusion, states it to be his opinion, that, so far as could be judged from the current price of goods, and from sales said to have taken place, the supposition that they had been or could be generally made so as to cover the whole amount of the bonds, as well as the prime cost, charges, and duties, though perhaps true in some particular instances, was no doubt greatly exaggerated. That it was, however, an indisputable fact, that the importation fell far short of the ordinary annual importations from Great Britain, and of the actual demand for most species of the merchandize imported; and that the goods were accordingly generally sold at an advance greater than the usual profits of importers. The difference constituted an extraordinary profit, and was a tax levied on the community by the persons who imported the merchandize contrary to law; which extra profit or tax was solely due to the non-importation act continuing in force with respect to all other persons and importations. The secretary accordingly submitted it as his opinion, that the one half of the forfeitures which would otherwise

fall to the share of collectors ought to be remitted; but that, with respect to the one half belonging to the United States, justice to the community required that, when remitted, at least an equivalent should be secured to the public for the extra profit, beyond that on common importations, which arises from the continuance of the non-importation act.

The statements made by the merchants, who are mentioned by the committee as men of character and respectability, were delivered apparently with such fairness and candour as induced the committee to give much credit to them. These statements went principally to prove, that they were innocent of intentional violations of the prohibitory law, and that the current reports of the enormous advances obtained by importers were not well founded, and had probably originated from a misunderstanding of the mode of selling English goods in some of the cities. That in New York, for instance, it is usual to demand and obtain *three* for *one* in the sale of such goods, which means £ 3 New York currency for £ 1 sterling, which really yields but 68$\frac{2}{3}$ per cent. advance on the prime cost. They admitted that particular articles had been sold for very high prices; but these articles were few in number, and were more than counterbalanced by the losses sustained on others, arising from the change of fashions, or the competition of American manufactures, which had grown up or increased in quantity while these goods had been kept in England by the non-importation law, at the expence and risk of their owners, and from the unsaleableness of goods for the southern market from the expence or impracticability of land carriage, and the risk of water conveyance from the cruizers of the enemy. They stated likewise that the high prices which had been obtained on some articles had been often received by second or third purchasers and not by the importers, the second purchasers being often a species of jobbers, who, having money at command, and being well acquainted with the state of the market, when there is a scarcity of a particular article, monopolize it and raise the price. These statements were corroborated and confirmed by declarations made on oath, by persons disinterested, as well as those interested in these importations.

Mr. Russell, late American charge d'affaires in Great Britain, who attended the committee at their request, stated that after the revocation of the orders in council, many of the American merchants applied to him to obtain his opinion, whether they could ship British manufactures to the United States with safety, or not? That before the revocation of the orders, upon considering the whole circumstances of the case, examining the words of the law, and perceiving that its operation depended

solely on the revocation of the orders in council; considering the evident bearing of the examinations in parliament, and the ground on which the opposition contended for the revocation of the orders, which was not so much an act of justice to the United States, as the advantage that was promised to their own manufacturers, he thought it his duty to countenance the idea that shipments made after the revocation of the orders would be admitted into the United States; that this ground was taken by the advocates for a revocation of the orders, who declared that they would advise their friends to ship, as they believed shipments, in the event of a revocation, might be made with safety, and that he thought good policy required him to countenance the idea, in order to co-operate as far as possible with the advocates of the revocation of the orders. That after the revocation of the orders, he continued to declare, and did declare to the merchants who applied to him, as his opinion, that they might make shipments with safety. This opinion applied only to the cases where shipments were made before the war; after a knowledge of the war had reached England he declared distinctly to the merchants, that the ground of a probable annulment of the non-importation act by the government of the United States had ceased. Mr. Russell stated, however, that after the knowledge of the declaration of war had reached England, he did still advise the American merchants to ship; because, if the property remained in England during the war, it would be ruinous to the holders. Many persons, after the revocation of the orders, and before the news of war arrived, had made purchases. He would not be understood to say, that he advised the merchants that in case the law should not be repealed, they would be permitted to enjoy the advantages of a monopoly and the consequent extraordinary profits, but merely that the property would not be confiscated; this, however, he said, was not at all a subject of conversation. His opinion that shipments might be made with safety, was founded as well on a presumption that the law would be annulled, as that the shippers would, in any event, be placed as nearly as possible on the footing on which they would have stood, had the law been annulled. That if the law should not be annulled, the special circumstances under which the shipments were made would entitle them to an exemption from its penalties.

The committee, in their report to the house, stated, that, on a view of the whole subject, they were of opinion, that the secretary of the treasury had full power to remit or mitigate the penalties and forfeitures incurred, should an interposition in either way be called for by the circumstances of the case. That they

considered it inexpedient to legislate on the subject, and therefore recommended that the petitions, with the accompanying documents, be referred to the secretary of the treasury.

On the tenth of December, the house, in committee of the whole, negatived by a majority of three the resolution recommended by the committee of ways and means, to refer the petitions to the secretary of the treasury. A motion was made for unconditionally remitting the penalties, which was negatived by a majority of eight. Resolutions were also offered for discriminating between purchasers before and after the passage of the non-importation law, enforcing in the latter case, and remitting in the former, which were negatived by large majorities. A resolution was then offered declaring that the law ought to be rigidly enforced. This motion was also negatived, 17 members only rising in favour of it. The committee of the whole then rose, and reported their disagreement to the report of the committee of ways and means, without having come to any other determination.

On the 15th a bill was received from the senate, on the passage of which only five voted in the negative, directing the secretary of the treasury to remit, on payment of the costs, in all cases in which shipments of American property had been made between the 23d of June (the date of the revocation of the orders in council) and the 15th of September (the time limited by the British government for obtaining protecting licences), excepting in cases in which the goods were purchased after a knowledge of the war. This bill was passed in the house by a majority of three, on the 23d, with two amendments, which were concurred in by the senate, one of which excluded from the operation of the bill the cases of goods brought from Canada and other British dependencies, the other related to the securing the duties on the forfeited goods.

A bill was subsequently introduced in the house of representatives, for the remission of bonds, on payment of costs and securing duties, in cases where the goods had been imported from the *dependencies* of Great Britain (which had been excluded from the former bill); provided that the goods had not been clandestinely imported, were bona fide American property, had been imported since the declaration of war, and shipped from Great Britain or Ireland previous to February 2d, 1811. This bill was, on its third reading, negatived by a small majority; but a similar one was a day or two after received from the senate, and concurred in by the house. By the non-intercourse bill of March 2, 1811, it was provided, that nothing therein contained should be construed to affect any ships or vessels or their cargoes,

the property of American citizens, which had cleared out for the Cape of Good Hope, or any port beyond, prior to November 10, 1810. Shortly after the declaration of war, an act was passed admitting to entry all other American vessels which had been laden in any of the ports of India, for which bonds* had been given for the landing of their cargoes in the United States, provided that the duties on such cargoes should be secured or paid, and the cargoes be deposited in the public stores, subject to the decision of congress. On the 27th of January, 1813, an act was passed remitting all forfeitures in such cases.

§ 3. The committee to whom was referred so much of the president's message as related to our foreign affairs made a long report to the house on the 29th of January, accompanied with a bill for the regulation of seamen on board public vessels and in the merchant service of the United States. The report is confined to the subject of our dispute with Great Britain relative to impressment. After approbating the conduct of the executive in regard to the pacific advances made to Great Britain, the committee state, that it now remains for the United States to take their final attitude, and to maintain it with consistency, and with unshaken firmness and constancy.

"With the British claim to impress British seamen," say the committee, "the United States have no right to interfere, provided it be in British vessels or in any other than those of the United States. That American citizens should be exempted from its operation is all that they demand. Experience has shown that this cannot be secured otherwise than by the vessel in which they sail. Take from American citizens this barrier, which ought to be held sacred, and there is nothing to protect them against the rapacious grasp of the British navy. This then is the extent of the demand of the United States; a demand so just in itself, so consistent and inseparable from their rights as an independent nation, that it has been a cause of astonishment that it should ever have been called in question. The foundation of the British claim is, that British seamen find employment in the service of the United States: this is represented as an evil affecting essentially the great interests of the British nation. This complaint would have more weight, if sanctioned by the British example. It is known, on the contrary, that it is in direct repugnance to it. Great Britain does not scruple to receive into her service all who enter into it voluntarily. If she confined herself within that limit, the present controversy

* By the commercial regulations of the British settlements in the East Indies, all foreign vessels are obliged to give bond for the landing of their cargoes in the country to which they respectively belong.

would not exist. Heretofore the subjects of even the most despotic powers have been left at liberty to pursue their own happiness, by honest industry, wherever their inclination led them. The British government refuses to its seamen that privilege. Let not this then be a ground of controversy with Great Britain. Let it be distinctly understood, that in case an arrangement should be made between the two nations, whereby each should exclude from its service the citizens and subjects of the other, on the conditions and principles above stated, that this house will be prepared, so far as depends on it, to give it effect, and for that purpose to enact laws, with such regulations and penalties as will be adequate. With this pledge, it is not perceived on what ground the British government can persist in its claim. If British seamen are excluded from the service of the United States, as may be effectually done, the foundation of the claim must cease. When it is known that not one British seaman could be found on board American vessels; it would be absurd to urge that fact as a motive for impressment. In declaring a willingness to give effect to the proposed arrangement, your committee consider it equally the duty of the house to declare, in terms the most decisive, that should the British government still decline it, and persevere in the practice of impressment from American vessels, the United States will never acquiesce in that practice, but will resist it unceasingly with all their force."

The bill reported by the committee, after receiving various amendments in both houses, none of which, however, affected its principle, was finally enacted on the last day of the session. It passed in the house of representatives by a majority of 56, the votes being ayes 89, nays 33. This act being of great importance, as showing the attitude taken by the United States in the present war, it is thought proper to present the following abstract of its provisions.

After the termination of the war in which the United States are now engaged with Great Britain, it shall not be lawful to employ on board any of the public or private vessels of the United States any persons but citizens of the United States, or persons of colour natives of the United States; neither shall it be lawful to employ any naturalized citizen, unless such citizen shall produce to the commander of the public vessel, or to a collector of the customs, a certified copy of the act by which he shall have been naturalized; and no person who shall arrive in the United States after the time when this act shall take effect, shall be admitted to become a citizen of the United States, who shall not, for the continued term of five years next preceding his admission, have resided within the United States, without

being at any time during the said five years out of the territory of the United States.

In all cases of private vessels of the United States sailing from a port in the United States to a foreign port, the list of the crew, made as heretofore directed by law, shall be examined by the collector for the district from which the vessel shall clear out, and, if approved of by him, shall be certified accordingly. And no person shall be admitted or employed on board of any such vessel, unless his name shall have been entered in the list of the crew, approved and certified by the collector, who, before he delivers the list of the crew to the captain, shall cause it to be recorded, which record shall be open for the inspection of all persons, and a certified copy thereof shall be admitted in evidence in any court in which any question may arise, under any of the provisions of this act. Supplemental directions may be given by the president, provided they are not repugnant to the provisions of this act.

No seaman or other seafaring man, not being a citizen of the United States, shall be admitted or received as a passenger on board of any public or private vessel of the United States, in a foreign port, without permission in writing from the proper officers of the country of which such seaman or seafaring man may be a subject or citizen.

The consuls or commercial agents of any nation at peace with the United States shall be admitted (under such regulations as may be prescribed by the president of the United States) to state their objections to the proper commander or collector against the employment of any seaman or seafaring man on board of any public or private vessel of the United States, on account of his being a native subject or citizen of such nation, and not embraced within the description of persons who may be lawfully employed, according to the provisions of this act; and the said consuls or commercial agents shall also be admitted to be present at the time when the proofs of citizenship of the persons against whom such objections may have been made, shall be investigated by the commander or collector.

If any commander of a public vessel of the United States shall knowingly employ or receive, on board his vessel, any person whose employment or admission is prohibited by the provisions of this act, he shall on conviction thereof forfeit and pay the sum of one thousand dollars for each person thus unlawfully employed or admitted.

If any person shall, contrary to the prohibitions of this act, be employed or received on board of any private vessel, the master or commander, and the owner or owners of such vessel,

knowing thereof, shall respectively forfeit 500 dollars for each person thus unlawfully employed or received in any one voyage; which sums shall be recovered, although such person shall have been entered in the certified list of the crew, by the collector for the district to which the vessel may belong; and all penalties and forfeitures incurred by virtue of this act, may be sued for, and recovered, with costs of suit, by action of debt, one moiety to the use of the person who shall sue, and the other moiety to the use of the United States.

Nothing in this act shall be construed to prohibit any commander or master of a public or private vessel of the United States, whilst in a foreign port, from receiving any American seamen in conformity to law, or supplying any deficiency of seamen on board his vessel by employing American seamen or subjects of such foreign country, the employment of whom shall not be prohibited by the laws thereof.

This act is only to have effect with respect to seamen whose government shall adopt similar regulations as to the exclusion of American seamen, and it is not to be construed so as to prevent any arrangement or treaty between the United States and any foreign power on the subject.

Such is the ground which the United States have taken in relation to the principal subject in dispute between them and Great Britain.

§ 4. An act was also passed, ordering the secretary of the treasury to provide new certificates of registry for American vessels, to be exchanged gratis by the collectors of the customs for the old ones, which were to be retained and defaced.

In the course of the session, a number of acts were passed for the increase and better organization of the army.

§ 5. In order to accelerate the completion of the present military establishment, an advance of $24 was authorized to each recruit on account of his pay, in addition to the existing bounty of $16, together with the bounty of 160 acres of land. The pay of the private soldier was likewise raised from six to eight dollars per month, and that of the non-commissioned officers, musicians, &c. in proportion. Non-commissioned officers and soldiers were also freed from arrest for debts contracted either before or after enlistment. The premium to recruiting officers was raised from two to four dollars for each recruit. Persons performing a tour of militia duty were authorized to enlist into the regular service, by which they would be exonerated from serving the remainder of their tour of duty, and the state to which they might belong was not to be required to furnish any persons in their stead. Recruits were to have the option of serving till

the end of the war, instead of five years, in which case they were to have the same bounties both in money and land.

§ 6. Twenty additional regiments were also authorized to be raised for one year, the recruits to receive a bounty of sixteen dollars in money, but no land; the recruiting officers a premium of two dollars for each enlistment. No person under 21 was to be enlisted without the consent of his parents or guardians in writing. By a subsequent act the president was authorized to raise 10 additional companies of rangers for the defence of the Indian frontier, in lieu of one of the regiments for one year.

§ 7. An act was also passed for the better organization of the general staff. The appointment of six additional major-generals was authorized, each of whom was to be allowed two aids-de-camp, to be taken from the officers of the line; and six brigadier-generals, to be allowed each a brigade-major and one aid-de-camp, to be taken also from the officers of the line. An additional sergeant and third-lieutenant to each company, and an additional major to each regiment in the army, was likewise authorized.

§ 8. Provision was also made for the better supplying of the army, and for the accountability of persons entrusted with furnishing the supplies.

§ 9. As connected with the military establishment, we may here mention, that an act was passed this session, authorizing the president, during this or any other war, to direct the post-master-general to send a mail between the head-quarters of any army of the United States, and such post-office as he may think proper.

§ 10. A bill was introduced into the house of representatives making a further appropriation of $400,000 annually, in addition to the sums already appropriated, for arming the whole body of the militia, and providing for classifying the militia in three classes: the *minor* to consist of those between 18 and 21 years of age; the *junior* of those between 21 and 31; and the *senior* of those between 31 and 45. This bill passed the house, 67 to 48, but was lost in the senate.

§ 11. A law was passed enacting that the non-commissioned officers, musicians, and privates of the volunteer and militia corps should be entitled to the same increase of pay as the regulars. It likewise provided that the fines imposed by courts martial on militia or volunteers in the service of the United States, should be certified to the comptroller of the treasury, and paid into the treasury by the marshals, within two months after collection.

§ 12. On the 27th of November, the committee on the naval

establishment, made a report to the house, asking leave to report a bill to increase the navy. The report was accompanied by a letter from the secretary of the navy, enclosing one from captain Stewart of the United States' frigate Constellation, and sundry estimates of the expense of building, &c. ships of different force. By these documents it appears, that the weight of metal discharged at one round of a ship rating 74 guns, is 3224 lbs., and of a frigate only 1360 lbs., being nearly three to one. That the expense of building and equipping a 74 would not exceed $300,000, while a frigate would cost upwards of 200,000. That the number of men required for a 74 is 650, in a frigate 450. From which it appears that by the addition of one half in expense and number of men, the force is increased nearly three fold. Ships of the line, too, being much stronger in scantling, thicker in the sides and bottom, and less penetrable to shot, are consequently less liable to be torn or battered to pieces, or sunk. From these data captain Stewart delivers his opinion, which was concurred in by capts. Hull and Morris, that three frigates would not be able to stand before a 74, notwithstanding the advantages they would derive from their divided force. "Suppose," he says, "three frigates of 50 guns were to undertake to batter a 74 gun ship, and that two of them were to occupy the quarter and stern of the 74 (this is placing them in the most favourable position), the other frigate engaged abreast, every thing would then depend on the time the frigate abreast could maintain that position to enable the other two to act with effect on her stern and quarter. But it must appear evident, to all acquainted with the two classes of ships, that the frigate abreast could not withstand the fire of so heavy and compact a battery many minutes; and in all probability would be dismasted or sunk the first or second broadside. This would decide the fate of the other two." For the prosecution of the present war with the most effect, a mixed naval force of the following description is, in captain Stewart's opinion, the best calculated: ships of the line, to rate, in honour of the year of our independence, seventy-sixers, to mount 88 guns; frigates to rate 40 guns, to mount 50; frigates to rate 32, to mount 42; and corvette ships to rate 16, to mount 20 guns. "By having a proportion of these classes of ships of war, the inner squadron, or *guarda costa*, may be composed of the ships of the line, and a few of the 32 gun ships, for repeaters and *look out ships*. Hence it would produce one of two results, either that the enemy would be obliged to abandon our coast, or bring on it a much greater force, at least double our number, out of which they would be obliged to keep on our coast a superiority at all hazards of the

sea; and at great additional expense and risk of transports, to provision and water them. But should they, from other circumstances, be unable to keep up this superiority on our coast, the door will be kept open for the ingress and egress of our cruizers and their prizes, while our other classes of ships may be sent in pursuit of their smaller cruizers and commerce. These observations will apply to all future wars in which we may be engaged with the maritime powers; but as we might more frequently be engaged with the Barbary powers, the frigates and 16 gun ships would be better adapted to that species of warfare.—They have no ships of the line. The ships of the line could then be laid up in ordinary, dismantled, and preserved at a small expense." A dry dock is highly recommended, as the most efficacious and least expensive mode of repairing ships of war, and as expediting the out-fits in one tenth of the time. It is stated, indeed, to be indispensably necessary. The captain concludes by strongly urging on the committee "the necessity of having what they propose for the increase of the navy, of the best seasoned materials, which will be by far the cheapest, and be longer in a state for active service. I trust their past experience will prove to their satisfaction this position, that the best materials are always the cheapest, and that a slow increase is better than a hasty and temporary one."

§ 13. On the 30th of November the committee of the senate on naval affairs reported a bill, authorizing the president to build forthwith four seventy-fours, and six forty-four gun frigates.—A motion was made, on its second reading, to strike out the seventy-fours, which was negatived 23 to 7. Considerable opposition was made to the seventy-fours in the house of representatives, and a motion was actually carried, 56 to 53, for striking out that part of the bill. The motion for striking out, however, was on a subsequent day reconsidered, and finally negatived, 52 to 58. The bill became a law, after being amended, by substituting "as soon as suitable materials can be procured therefor," in place of "forthwith."

An act was afterwards passed for building six sloops of war, and also authorizing the president to build, or procure, such a number of sloops of war or other armed vessels as the public service might require on the lakes.

An appropriation of $100,000 was also made for establishing a dock-yard for repairing vessels of war, in such central and convenient place on the seaboard as the president should designate.

He was likewise authorized to sell such of the gun-boats as

should have become unfit for service, or as in his judgment might be no longer necessary to be retained by government.

§ 14. Early in the session a number of petitions were presented to congress from the owners of privateers in Boston, New York, Norfolk, and Portsmouth (Virg.), praying a reduction of the duties on prize goods, on the ground of the heavy duties and other enormous charges consuming nearly the whole proceeds of the captured property, and thus destroying a species of naval armament, the most destructive to the commerce of the enemy. They urge upon congress, that no naval force of any efficacy could be supported by government but at an expense far greater than the amount of the duties of which they pray the remission; and that the employment of a great number of experienced masters of vessels and seamen necessarily engaged in them, whose services could not probably be obtained in any other way, and whose skill and intrepidity produce so much honour to the country, forms another important consideration. These petitions were referred by the house of representatives to the committee of ways and means, who, on the 21st of December, reported, that it was inexpedient to grant the prayer of the petitioners. This report was accompanied by a letter from the agents of the petitioners from New York, and a letter from the secretary of the treasury, which the committee state to contain all the facts and views which will probably be found material in the examination and consideration of this subject. The secretary of the treasury, in his letter to the committee, is decidedly opposed to the prayer of the petitioners. "No part of the duties on prize goods," says he, "ultimately falls on the captors. The duties on importations are paid by the consumers, whether the merchandise be captured by privateers, or regularly imported by merchants. There may be accidental exceptions arising from such a superabundance of a particular article as will sink its price below the prime cost and charges. It is not believed that this is now the case, and it is very improbable that during the war this should be the case, with respect to any species of foreign merchandise whatever. Coffee, which is the most abunddant article, pays a duty of ten cents a pound. The price for exportation, in which case no duty is paid, is about six cents; and the price for home consumption is at least sixteen cents. Indeed it is evident that a reduction of duties will be of no use to the privateers, unless the merchandise continues to be sold at the same price, as if the duties had not been reduced. In order to render the reduction beneficial to the captors of prize goods, the consumers must still pay the same price as heretofore; the only difference being, that the duty still thus levied upon them would

be paid to the captors, instead of being paid into the treasury."

"All common regular occupations," continues the secretary, in another part of his letter, "will generally find their own level; and, if left to themselves, the capital and labour employed on each will regulate themselves so as to leave a moderate but adequate profit to the persons respectively engaged in each branch. Some occupations, important to the community at large, may be so unprofitable as not to be pursued to the extent required by the public interest. These form an exception, and may require an extraordinary encouragement from government. But experience shows, that the occupation where profit depends wholly or in a great degree on hazard, are generally overstocked and attract a considerable capital, although there be a certain loss in the aggregate. This is daily exemplified in the case of lotteries, which are filled, although there is a certain and acknowledged loss of fifteen per cent. on the whole amount of capital thus laid out by the adventurers. The hope of a prize, the uncertain and improbable chance of an easy, prompt, and great profit, are sufficient inducements to produce that effect. The occupation of privateers is precisely of the same species with repect to hazard and to the chance of rich prizes, and is, at this moment, still more encouraged by the want of employment for the capital and seamen, heretofore engaged in ordinary commercial pursuits. If this view of the subject be correct, it necessarily follows, that a bounty may indeed still more increase the number of privateers, but without increasing in any proportionate degree the number of captures; that of existing privateers being already more than sufficient for the quantity of food afforded by the enemy's trade. The only probable effect will therefore be, a diminution of revenue, which must be supplied by another tax, and an unprofitable application of the national capital and labour, without inflicting any additional sensible injury on the enemy. Should however the opinion thus formed be considered as erroneous, there is another forcible objection to the mode now proposed of giving an encouragement or bounty. I allude to the temptation or facility, which the vicinity of the British colonies affords, of making collusive or pretended captures of British prohibited merchandise. It has been suggested from a source in which confidence may be placed, that arrangements were already made, or at least contemplated for that object. A reduction of the duties, by encreasing the profit, would operate as an insurance on the risk, and assist in defraying the expenses attending the transaction. It seems, that even supposing some additional encouragement to be necessary, it would be preferable to give it in some other shape, which should not be calculated to promote those fraudulent operations."

Petitions were likewise presented from Joshua Barney and Stephen Kingston, on behalf of certain owners of privateers, praying that certain property on board American ships bound here from England, and sent in by privateers, should be delivered to the captors for their benefit. These petitions were referred to the committee of ways and means who reported, "that congress has already remitted the penalties and forfeitures, incurred by American citizens, and that, in the opinion of the committee, if enemy's property be forfeited to the government under the non-importation act, it would, for reasons of policy, be unwise for congress to interpose; that if the petitioners can claim as "informers," the claim is secured to them by existing laws, and if not secured to them by existing laws, the claim is vested in the collectors and others, from whom congress could not, with justice, transfer it.

"The committe therefore submit the following resolve:

"*Resolved*, That it would be unwise and impolitic, to act upon the subject of the said petitions."

This resolution was disagreed to by the house of representatives in committee of the whole, and the following was reported as a substitute thereto:

Resolved, That any right or claim of the United States to British property which may have been captured by American privateers, arising from forfeiture under any provision of the non-importation act, ought to be relinquished for the benefit of the captors.

This resolution was referred to the committee of ways and means, with directions to report a bill in pursuance thereof, which bill was passed by the house, but rejected by the senate.

§ 15. More favourable notice was taken by congress of the petition of a number of owners of privateers in Baltimore, representing the embarrassments, difficulties, and delays attendant on the determination of prize causes in the different courts of the United States; the great inconveniences experienced in consequence of that provision of the prize act, which renders it incumbent on the captors to proceed against the prize in the first district in which it is brought; and the burthensome commissions paid to the marshals. A law was passed, enacting that all prizes made by privateers should be sold at auction by the marshal of the district in which it was condemned, within 60 days after condemnation, on such terms of credit, and in such lots or proportions as may be designated by the owners of the privateer, provided the term of credit do not exceed ninety days. Marshals are to be entitled to no more than one per cent. of the proceeds, after the duties, costs, and charges are deducted, such commissions, however, in no case to exceed 250 dollars. The

marshals were also directed, after deducting the duties, costs, and charges, to pay over the proceeds or promissory notes to the owners and crew, according to the proportions established by law, or by mutual agreement. It was likewise enacted, that the owners of privateers, or their agents, may, at any time before filing the libel, remove the prize to any other port in the United States, provided that no attachment has been laid on the captured property before such removal, at the suit of any adverse claimant, or a claim against it have been interposed in behalf of the United States.

§ 16. Towards the end of the session a bill was introduced into the senate, which subsequently passed into a law, to encourage the destruction of the armed vessels of war of the enemy, except cartels and flags of truce. This act offers a bounty of half the value of any British vessel of war, and also half the value of her guns, cargo, tackle, and apparel, which may be destroyed by torpedoes, or other destructive machines, or in any other manner, other than by the armed or commissioned vessels of the United States.

§ 17. On the 12th of November, in the house of representatives, Mr. Wright moved that a committee be appointed to bring in a bill vesting the power of retaliation in the president in certain cases. On the 17th a bill was reported, but on its third reading it was negatived, on the ground that the president already possessed the power.

On the 9th of December the following resolution was offered for consideration by Mr. Bassett:

Whereas, It is represented that Great Britain has seized sundry persons fighting under the American flag, laying claims to them alike incompatible with justice and the rights of the United States as an independent nation:

Resolved, That the president be required to lay before this house the information he has received on that subject, and the measures taken to redress an evil which violates the rights and interests, and outrages the feelings, of a free and independent people.

Mr. Milnor having objected to the form of the call on account of its assuming as fact circumstances of which the house had no official or authentic information, Mr. Bassett withdrew his motion, which was substituted by the following, offered by Mr. Macon:

Resolved, That the president of the United States be requested to cause to be laid before this house any information which may be in his possession touching the conduct of British officers towards persons taken in American armed ships.

This resolution was agreed to, after several attempts at amendment had been negatived by large majorities.

The president, in compliance with this resolution, communicated a report of the secretary of state, accompanied with several documents, from which it appears, that several persons, some of whom are said to be native, and others naturalized citizens of the United States, being parts of the crews of the United States armed vessels Nautilus and Wasp, and of the private armed vessel Sarah Ann, have been seized by British officers, under the pretext of their being British subjects, for the avowed purpose, as is understood, of having them brought to trial for their lives. The report is also accompanied by a letter from admiral Warren, and a correspondence between vice-admiral Sterling and William H. Savage, late agent for American seamen and commerce at Jamaica, from which it appears, that the British claim a right to retain on board their ships of war American citizens who may have married in England, or have been impressed from on board British merchant vessels; and that they consider an impressed American, when discharged from their ships, as a prisoner of war.

On the 18th of February a bill passed the senate, 17 to 4, impowering the president to retaliate on British prisoners, or in case of their being none, or not sufficient, on any other British subject, for any capital or other punishment inflicted on citizens of the United States, in the military or naval service, or on board privateers. This bill was amended in the house of representatives, and finally passed in substance as follows:

In every case, wherein, during the present war, any violations of the laws and usages of war among civilized nations shall be or have been perpetrated by those acting under the authority of the British government, on any of the citizens of the United States, or persons in the land or naval service of the United States, the president is authorized to cause full and ample retaliation to be made, according to the laws and usages of war among civilized nation, for every such violation; and in all cases where any outrage or act of cruelty shall be or has been practised by any Indians, in alliance with the British government, or in connexion with those acting under its authority, on citizens of the United States or those under its protection, the president is authorised to cause full and ample retaliation to be executed on such British subjects, soldiers, seamen, or marines, or Indians in alliance or connexion with Great Britain, being prisoners of war, as if the outrage had been done under the authority of the British government.

CHAPTER III.

§ 1. Treasury report. § 2. Navy loan. § 3. Loan of sixteen millions. § 4. Treasury notes. § 5. Suspension of non-importation act. § 6. Extra session. § 7. Duty on iron wire. § 8. Public lands. § 9. Yazoo claims. § 10. Naturalization. § 11. New state. § 12. Mail steam-boats. § 13. Vaccination. § 14. Reward of valour. § 15. Amendment to the constitution. § 16. Medal to commodore Preble. § 17. Treasury mitigating power. § 18. Presidential election. § 19. Presidential messages. § 20. Rupture with Algiers. § 21. Treatment of American seamen. § 22. Resolutions of the legislature of Pennsylvania. § 23. Naval exploits. § 24. British licenses. § 25. Berlin and Milan decrees. § 26. Appropriations. § 27. Dissolution of congress.

§ 1. By the annual report of the secretary on the state of the finances, it appears, that the actual receipts into the treasury for the year ending September, 30, 1812, were as follows:

Customs, and other branches of revenue	$ 10,934,946 90
On account of the loan of 11 millions	5,847,212 50
Total amount of receipts	16,782,159 40
Balance in the treasury October 1st, 1811	3,947,818 36
	20,729,977 76

The disbursements during the same year were:

Civil department	1,823,069 35
Army, navy, and Indian departments	11,108,776 54
Principal and interest of the public debt	5,436,479 18
	18,368,325 07
Balance in the treasury September 30, 1812	2,361,652 69
	20,729,977 76

The receipts and expenditures for the last quarter of 1812 are estimated at nearly the same sum. The receipts for the year 1813 are estimated at 12 millions, and the expenditures as follows:

Civil department	$ 1,500,000
Reimbursement of principal and interest of public debt	8,500,000
Military establishment	17,000,000
Naval establishment	4,925,000
	31,925,000
Deduct estimated receipts	12,000,000
Balance to be provided for by loans	19,925,000

Of this sum more than one million was already contracted for, and there remained on hand about a million and a half in treasury notes. An authority to issue two millions and a half more, being the amount reimbursable in 1813, would still keep the whole amount issued at five millions, and reduce the amount of the loan to about fifteen millions of dollars.

The estimates of the secretary of war were predicated on the employment of the whole force authorized by law, amounting to 36,700 men of every description, besides volunteers and militia. The estimates of the secretary of the navy embraced only the expences of the present naval force, consisting of nine frigates and nine smaller vessels, and 200 gun-boats and other vessels, the whole number of men and boys of every description being 13,360. Any increase of the navy, of course, would render it necessary to increase the amount of the loans.

The loans necessary in 1813, which were estimated at about twenty millions, would not make an increase of the debt to that amount, as the payments on account of the principal during the year would exceed five millions, making the actual increase of debt nearly fifteen millions.

The treasury report was read and referred as usual to the committee of ways and means, on the 5th of December.

On the 18th of January they reported a bill to authorize a loan of —— millions of dollars, and a bill authorizing the issuing of treasury notes for the year 1813.

§ 2. On the 26th Mr. Milnor moved the following resolution:

Resolved, That the committee of ways and means be instructed to report a bill authorizing a loan of dollars for building and equipment of all such ships and vessels of war as have been or may be directed to be built by any law of the present session.

After a short but animated debate, this resolution was negatived, 26 to 81.

§ 3. The loan bill reported by the committee, after having the blank filled up with 16 millions, passed both houses, in the house of representatives 72 to 38. This law authorizes the president to borrow sixteen millions of dollars, reimbursable in 12 years from January 1, 1814. The sale of the certificates of stock is to be deemed a good execution of the power to borrow; an account of the monies obtained by such sale to be laid before congress, with a statement of the rate at which they were sold*. The appointment of agents for obtaining subscriptions, or

* The stock of this loan was sold for $ 88 in money for $ 100 in stock, the interest to be paid quarter yearly; the buyers of the stock to have the privilege of paying up their instalments, the interest in that case commencing on the whole immediately.

selling stock, was authorized, who were to be allowed $\frac{1}{4}$ of one per cent. on the amount sold or subscribed.

§ 4. The treasury note bill was likewise passed. It authorizes the issuing of notes to the amount of five millions within the year, and an additional five millions, if the president deem it expedient, to be in part of the loan of sixteen millions before authorized. The notes bear interest at the rate of $5\frac{2}{7}$ per cent. per annum, to be reimbursed at the treasury, one year after the day on which they are respectively issued. The appointment of agents for the sale of the treasury notes (not under par) was authorized, to be allowed a commission of $\frac{1}{4}$ of one per cent. on such sales. These notes are made receivable for all public dues, and credit is to be given for both principal and interest due on the day of such payment: the interest to be computed at the rate of a cent and a half per day on every $ 100 of principal, each month to be computed as containing 30 days.

§ 5. On the 15th of February, the committee of ways and means made a report to the house, accompanied with a bill partially suspending, for a limited time, the several non-importation acts, laying a duty on foreign tonnage, and prohibiting the judges from giving up property under judicature, on the owners giving bonds for refunding its value. The committee state in their report, that they have deemed it to be their duty, that the public service may not suffer, and that the public credit may be duly supported, to look beyond the ways and means of the present year, and to take into consideration the revenue which may be wanted for the year 1814. That an estimate of the probable amount of the revenue which will accrue under existing laws and be receivable within that year, has been submitted to congress in the annual report of the secretary of the treasury, made during the present session. That, comparing the amount thereof with the sums which will probably be required by a prudent regard to the public credit, it appears to the committee indispensably necessary to make a further provision. That this may be done by a partial suspension of the non-importation acts, which will not greatly lessen their injurious effects upon the enemy, by an additional duty on foreign tonnage, and by the imposition of internal taxes and duties. That, in their opinion, all these means will be necessary to supply the revenue which will be wanted. That it is impracticable during the present session, consistently with a due attention to the other business of the nation, to enact the laws necessary to embrace the last mentioned object; but that this may be done, without difficulty, and without a delay which will be injurious either to the public credit or the public service, by an earlier meeting of congress

than the constitutional period, which it will be the duty of congress, or the executive branch of the government, to fix at such time as shall be deemed most proper and expedient.

On the 17th Mr. Little introduced the following resolution with some remarks in favour of the policy of the non-importation act, to which he avowed himself to be very friendly, and to the suspension of which he was opposed:

Resolved, That the committee of ways and means be, and hereby are instructed to report to this house a bill or bills laying taxes for the support of the war.

This motion was opposed on the ground of the impracticability of acting on the subject properly at the present session.—Sitting day and night, and passing by all other business, a proper system of taxation could not be digested and put into the form of a law before the end of the session. Two only, out of fourteen of the bills it would be necessary to pass to carry the system proposed at the last session into effect, would require the whole of the present session to perfect them. The passage of a system of taxation, besides, would not obviate the necessity of the passage of the law for suspending partially the non-importation act. It would require both.

It was then moved to strike out the whole of the resolution, for the purpose of inserting an instruction to the committee of ways and means to report a bill or bills, pursuant to the report of the committee of ways and means on this subject, which passed the house on the 4th of March, 1812. This modification of the motion was accepted by Mr. Little, but the motion was still opposed, as going to cast censure on a committee which had laboured day and night in its vocation, and requiring them to originate measures which they had already declared it impracticable to act on at the present session.

The question on its adoption was decided in the negative, 47 to 69.

On the 29th, in committee of the whole, a motion was made and carried, 63 to 23, to strike out the first section, which was concurred in by the house, 70 to 24. The 2d, 3d, and 4th sections, being connected with and depending upon the first, of course fell with it, so that all that related to the suspension of the non-importation was stricken out. The remainder of the bill, prohibiting the judges from restoring goods on bond, and laying a tax on foreign tonnage, after being amended, at the suggestion of Mr. Milnor, by a clause limiting its duration to the end of the war, was passed by the house, but postponed by the senate to the next session.

Two other bills passed the house and failed in the senate, the proceedings thereon being cut short by the constitutional period of the session, viz. a bill prohibiting the use of foreign licenses, and a bill prohibiting exportation in foreign bottoms.

On the 22d a resolution was offered, in consequence of the rejection of the suspension of the non-importation act, instructing the committee of ways and means to report a bill laying a duty on distilled spirits. This resolution, after some debate, was negatived, 46 to 75.

§ 6. On the 19th of February, Mr. Grundy, in the house of representatives, offered the following resolution for consideration:

Resolved, That it is expedient that the thirteenth congress of the United States should assemble on the Monday in May next, and that a committee be appointed to bring in a bill accordingly.

Considerable debate arose on this resolution, which turned principally on the practicability of providing the revenue necessary for 1814, at the present session. Those who voted for it contended that it was not practicable; and many who voted against it declared their impression that an early session would be necessary, but that they would not vote for it now, because the effect of the adoption of the resolution would be, to postpone the discussion of the bill for repealing the non-importation act, and the subject of taxes, beyond the present session. When the question was taken on the adoption of the resolution, it was decided in the negative, 70 to 53.

On the 22d, after the rejection of the suspension of the non-importation act, Mr. Grundy offered a resolution to the following effect, which was agreed to by a large majority.

Resolved, That a committee be appointed to enquire into the expediency of providing by law for an earlier day for the next meeting of congress than that fixed by the constitution.

A bill was accordingly reported and passed into a law, appointing an extra session to be held on the 4th Monday of May.

§ 7. A number of petitions were presented early in the session, praying for the imposition of a duty on the importation of iron wire, in order to encourage its manufacture, in conformity to which an act was passed imposing thereon the same duty as is paid on the importation of iron, steel, or brass locks, &c. with an addition of 10 per cent. when imported in foreign vessels.

§ 8. An act was likewise passed granting to purchasers of public lands a further term of three years to complete their payments, provided that all arrears of interest should be paid before the expiration of the period formerly allowed by law for pay-

ment, and that the residue of the principal should be paid with interest in three annual instalments.

The committee on public lands, who recommended this additional credit, also recommended, that such parts of the laws for the sale of the public lands as allow a credit on part of the purchase money, be repealed; and that the price at which lands be offered in future be one dollar and twenty-five cents per acre; and that in future sales a portion of the public land be offered in tracts of 80 acres. "From the view they have taken of the subject," say the committee, "they cannot but believe, that important advantages would result from so modifying the present law as to require cash payments. The frequent application of purchasers for indulgence, and the frequent recurrence of circumstances which necessarily induce the legislature to mitigate the general operation of the law, has inclined the committee to believe, that the system of credit is not well adapted to the circumstances of the country, and does not produce the effects intended by it. It is believed, judging by the experience of the past, that the present system cannot be continued, and the laws rigidly executed, without occasionally producing great injury to the purchasers. Men are seduced by the temptation which the credit holds out them, to extend their purchases beyond their means of making payment. The unfavourable fluctuations of commerce cannot be foreseen, and the pretty general disposition in men to anticipate the most favourable results from the produce of their labour, are the general causes of the failure of purchasers in making their payments.

"By abolishing the credit in future sales, every subsequent purchaser would, without any liability to error, be able to calculate his means of making payment. If his purchase should not be so extensive, he will at once be secure and quiet in his possession. In future those fertile sources of discontent and disquietude, which arise from disappointment, and from the exercise of the measures necessary to enforce the payments, as also the frequent distress occasioned by the forfeiture of lands on which settlements have been made, would be removed. The measure would also tend to facilitate the collection of the public monies, and simplify the business in the land offices.

"It has been alleged that monopoly and large speculations would be promoted by abolishing the credit, and reducing the price of the public lands. Any measure that would produce that effect should be carefully guarded against. A monopoly of land for the purpose of settlement by tenants, threatens with palpable injury the pecuniary and political independence of the agricultural class of society; and speculation in wild lands is at

least an employment unproductive to society, the speculator adding no new value to the article in which he trades. It is believed that the proposed measure would not have the alleged effect; the price being still higher than can be afforded for any other purpose than that of improving the land, or securing it for the use of the purchaser's family. While government dispose of their lands for a valuable consideration, he who possesses the means to afford that consideration will have the advantage of him who does not, in the purchase of lands. While, however, large quantities are in the market, and offered for sale in small tracts, little may be apprehended from the evils of monopoly and speculation, whether the lands be sold for cash, or on credit.

"Of all expedients that have been resorted to for preventing the public lands from being engrossed by capitalists, that of offering them for sale in small tracts has been the most successful. Holding them at a high price has also had that effect, but attended with the disadvantage, that the industrious poor man is also by the same means precluded from becoming a purchaser. But the sale in small tracts facilitates the purchase by those who are by habit or inclination disposed to cultivate the soil, while it prevents the lands being engrossed for the purpose of speculation. The experience of many years under the present system, with all the aid of remedial laws for the relief of purchasers, does not promise it a successful operation in future, and it cannot be correct policy to persist in a system so much affected by circumstances, that it appears to operate by the means of frequently deviating from itself. It appears by the report of the secretary of the treasury, that the receipts on account of forfeitures to the United States, from delinquent purchasers within the state of Ohio alone, for the year ending 30th Sept. 1811, amounted to $49,561 74, and it is believed (from information not official) that they will exceed that amount for the present year. Say the receipts on account of forfeitures for two years, are $100,000. The forfeiture is generally one fourth the purchase money; so that the prime cost of the lands forfeited with their improvements, in two years, in the state of Ohio, will amount to $400,000. Such a quantity of land property, brought into market, and frequently at an under value (the land being always first offered at auction for what is due on it), must eventually induce the employment of a capital different from that possessed by the agricultural class of the community.

"These extensive forfeitures are no doubt much owing to an unfavourable state of things; but, under the most favourable circumstances, the present system cannot operate to the advantage of the poor. An individual who takes the whole term of

credit allowed by law on the three last instalments, is charged on the monies thus credited more than ten per cent. per annum above those that make prompt payment, and in most instances, if he possess no other resources than those arising from the land itself, he suffers a forfeiture of the money paid, and the land with its improvements.

"If, as is now proposed, part of the public lands were offered in tracts of eighty acres, at one dollar and twenty-five cents per acre, every individual who is able to pay $100 might acquire a freehold estate, without encumbering himself with any debt whatever.

"It may be added, that the present appears more favourable for the proposed change than any subsequent period. Several land offices have been authorized, which have not yet gone into operation: these might all commence sales on the proposed plan without the inconvenience of change."

This subject was not further acted on during the session.

§ 9. A bill passed the senate on the 19th of January, 16 to 9, to carry into effect the report made to congress in February, 1803, by the secretary of state, secretary of the treasury, and attorney-general of the United States, commissioners, &c. recommending a compromise of the Yazoo claims. In the house of representatives it was referred to the committee on the public lands, who, on the 1st of February, reported it with amendments. The bill and report was laid over till next session, on account of the pressure of important business preventing a full discussion of the subject during the short period of the present session. An elucidation of this subject will be presented in the "Historical Register," when it next occupies the attention of congress.

§ 10. A bill passed both houses at the preceding session, making provision for the naturalization of certain aliens (British subjects). This bill appeared to the president to be liable to abuse by aliens having no real purpose of effectuating a naturalization, and therefore was not signed by him; and having been presented at an hour too near the close of the session to be returned with objections for reconsideration, the bill failed to become a law. The subject was again taken up by the house of representatives, agreeably to the recommendation of the president, and a new bill passed on the 23d of February. This bill fell through in the senate.

§ 11. A bill passed the house of representatives the preceding session for erecting the Mississippi territory into a state, which was rejected by the senate on account of an objection which it was understood would soon be removed by the consent of the state of Georgia to the measure. A new bill was therefore ori-

ginated in the house of representatives. This bill passed the house by a considerable majority. In the senate, it was referred to a committee, to whom was likewise referred a memorial of sundry citizens of the territory, praying that all proceedings thereon might be suspended. Nothing further was done on the subject during the session.

§ 12. An act was passed authorizing the post-master-general to contract for carrying the mail in steam-boats in any place where they may be established, provided that the expence should not be at a greater rate, taking into consideration distance, expedition, and frequency, than is paid for carrying the mail by stages on the post-roads adjacent to the course of such steam-boats, and that the contract should secure the regular transportation of the mail throughout the year.

§ 13. For the encouragement of vaccination an act was passed, authorising the president to appoint an agent to preserve the genuine vaccine matter, and to furnish it when applied for through the medium of the post-office. The act provides also, that packets to or from the agent, not exceeding half an ounce in weight, containing vaccine matter, or relating to the subject of vaccination, and that alone, shall be free of postage.

§ 14. At different periods in the course of the session the president transmitted to congress the official letters of captains Decatur, Jones, and Bainbridge, containing the account of their brilliant exploits on the ocean. He likewise transmitted a correspondence between the secretary of the navy and captain Chauncey and lieutenant Elliott, relative to the capture of the brigs Detroit and Caledonia on lake Erie*. In communicating captain Bainbridge's letter, the president recommended to the consideration of congress, the equity and propriety of a general provision, allowing, in cases in which the condition of the captured ship, by rendering it impossible to get her into port, presents a bar to the reward of successful valour, a fair proportion of the value which would accrue to the captors, on the safe arrival and sale of the prize. Agreeably to this recommendation, an act was passed authorizing the president to have distributed, as prize money, to captain Isaac Hull of the frigate Constitution, his officers and crew, the sum of fifty thousand dollars, for the capture and destruction of the British frigate Guerriere; and the like sum in like manner to captain William Bainbridge, his officers and crew, for the capture and destruction of the British frigate Java; and the sum of twenty-five thousand dollars in like manner to captain Jacob Jones, of the sloop of war Wasp, his

* The whole of these letters will be found among the Official Documents in the second volume.

officers and crew, for the capture of the British sloop of war Frolic. The president was likewise requested to present to captains Hull, Decatur, Jones, and Bainbridge each a gold medal, with suitable emblems and devices; and a silver medal, with like emblems and devices, to each commissioned officer of the aforesaid vessels, in testimony of the high sense entertained by congress of the gallantry, good conduct, and services of the captains, officers, and crews of the aforesaid vessels, in their respective conflicts with the British frigates the Guerriere and the Macedonian, and the sloop of war Frolic: and the president is also requested to present a silver medal, with like emblems and devices, to the nearest male relative of lieutenant Bush, and one to the nearest male relative of lieutenant Funk, in testimony of the gallantry and merit of those deceased officers, in whom their country has sustained a loss much to be regretted. The president was likewise requested to present to lieutenant Elliot, of the navy of the United States, an elegant sword, with suitable emblems and devices, in testimony of the just sense entertained by congress of his gallantry and good conduct in boarding and capturing the British brigs Detroit and Caledonia, while anchored under the protection of Fort Erie.

§ 15. On the 18th of January, Mr. Pickens, of North Carolina, submitted, in the house of representatives, the following resolution for an amendment to the constitution of the United States. On the 20th, the same resolution was submitted in the senate by Mr. Turner, in pursuance of instructions from the legislature of the state of North Carolina. The resolution passed the senate 22 to 9, but no order was taken thereon in the house of representatives.

Resolved, by the senate and house of representatives of the United States of America in congress assembled, two thirds of both houses concurring therein, that the following amendment to the constitution of the United States be proposed to the legislatures of the several states, which, when ratified by the legislatures of three fourths of the said states, shall be valid, to all intents and purposes, as a part of the said constitution:

That, for the purpose of choosing representatives in the congress of the United States, each state shall, by its legislature, be divided into a number of districts equal to the number of representatives to which such state may be entitled.

Those districts shall be formed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants entitled by the constitution to be represented: in each district the qualified voters shall elect one representative, and no more.

That, for the purpose of appointing electors of president and vice-president of the United States, each state shall, by its legislature, be divided into a number of districts equal to the number of electors to which such state may be entitled: those districts shall be composed of contiguous territory, and contain, as nearly as may be, an equal number of inhabitants, entitled by the constitution to representation. In each district the persons qualified to vote for representatives shall appoint one elector, and no more. The electors, when convened, shall have power, in case one or more of those appointed as above prescribed shall fail to attend, for the purposes of their said appointment, on the day prescribed for giving their votes for president and vice-president of the United States, to appoint another or others to act in the place of him or them so failing to attend.

Neither the districts for choosing representatives, nor those for appointing electors, shall be altered in any state, until a census and apportionment of representatives under it, made subsequent to the division of the state into districts, shall change the number of representatives and of electors to which such state may be entitled. The division of the states into districts hereby provided for, shall take place immediately after this amendment shall be adopted and ratified as a part of the constitution of the United States, and successively afterwards whenever, by a census and apportionment of representatives under it, the number of representatives and of electors to which any state may be entitled, shall be changed: the division of such state into districts, for the purposes both of choosing representatives and of appointing electors, shall be altered agreeably to the provisions of this amendment, and on no other occasion.

§ 16. On the 16th of December, in the house of representatives, Mr. Quincy submitted the following resolution, which he prefaced by some observations favourable to the policy of conferring honorary rewards for bravery; and certainly, he remarked, no class of men more justly deserved the meed of honour than those attached to our gallant little navy. But, as it was a part of the duty of the house to pass such votes, it was also their duty to see them carried into execution. He applied these remarks to the vote by congress of a gold medal, sword, &c. to commodore Preble and his companions in arms, for their spirited exertions before Tripoli. He stated, that an appropriation of $20,000 had been made and expended to carry this vote into effect; and yet, he said, he believed no officer concerned had received the swords voted to them; if they had, he had not been able to hear of one. As to the medal voted to commodore Preble, and the month's pay to the seamen, his knowledge did

not extend. But if the swords were given, as the resolution directed, to those who had distinguished themselves on that occasion, it was as necessary to the object of the vote that their names should be known as that the swords should be received. He therefore proposed a resolution, substantially as follows:

Resolved, That the president of the United States be requested to cause to be laid before this house a statement of proceedings had under the resolution of congress of the 3d March, 1805, whereby the president of the United States was requested to cause a gold medal to be presented to commodore Preble, and swords to the officers, &c. and that he be requested to cause to be stated the names of the officers who received these distinctions, and stating the manner in which the appropriation of 20,000 dollars, made for this object, was expended.

The motion was agreed to, and a committee appointed to wait on the president, who, in compliance with the resolution, transmitted to the house a report of the secretary of the navy on the subject. The secretary stated in his report, that, in pursuance of the resolution of congress of the 3d of March, 1805, a gold medal, emblematical of the attacks on the town, batteries, and naval force of Tripoli, by the squadron under commodore Preble's command, was presented to the commodore, accompanied by a letter from Robert Smith, then secretary of the navy, requesting him to receive it as a testimony of his country's estimation of the important and honourable services rendered by him.

The secretary further stated, "That one month's pay was allowed, 'exclusively of the common allowance, to all the petty officers, seamen, and marines of the squadron, who so gloriously supported the honour of the American flag, under the orders of their gallant commander in the several attacks:'

"That no sword has been presented to either of the commission officers, or midshipmen, who distinguished themselves in the several attacks:

"And that it is not known to this department, that there ever was made by congress a specific appropriation of twenty thousand dollars for the purpose of carrying into effect the resolution referred to.

"With respect to that part of the resolution which 'requests the president to cause a sword to be presented to each of the commission officers and midshipmen, who distinguished themselves,' it is presumed that the president saw what to his mind appeared difficulties of great delicacy, from the peculiar language of the resolution. By the resolution he was requested to present swords to such only as had distinguished themselves;

and all having been represented to him as having acted gloriously, he could not, in justice, draw with precision a line of discrimination. He felt, it is presumed, a repugnance to the making of a selection which, by imputation, would necessarily have cast an unmerited reproach upon all not therein included. A degradation of that kind might have greatly injured the service, and could not possibly have been grateful to the honourable feelings of the favoured officers."

This message was referred to a committee of seven members, who, on the 26th of February, made a report to the house, accompanied with a correspondence with the navy department on the subject.

"From these letters and documents it appears," say the committee, "that in a letter addressed to the chairman of the committee of ways and means, dated the 16th December, 1805, and in explanation of 'the causes why the expenditures of that branch of the public service had so far exceeded the estimates and appropriations for the same,' the then secretary of the navy did transmit '*an estimate of expenses defrayed*' by the navy department, containing an item declared to be 'for expenditures under the resolution of congress of the 3d of March, 1805, for which objects no appropriations have been made: *they have therefore been defrayed* out of the appropriations for the support of the navy for the year 1805, $ 20,000.'

"Upon this statement, an act passed on the 22d of January, 1806, making an additional appropriation to supply the deficiencies in the appropriations for the naval service during the year 1805, in which was included the above sum, thus stated to be a deficiency incurred by an expenditure which, to that amount, had been defrayed by the navy department.

"It now appears, by a letter from the secretary of the navy, dated the 2d of February instant, that the item above mentioned, instead of being, as it was stated to be, '*for expenditures which had been defrayed*' by the navy department, was, in fact, merely an item stating '*a deficit*,' which resulted from '*an estimate that the objects contemplated by the resolution would, if carried into effect, cost the sum of* $ 20,000.'

"From the preceding statement, it therefore appears to your committee, that the sum of twenty thousand dollars had not been '*defrayed out of the appropriations for the support of the navy for the year* 1805,' as was alleged to have been done in the item annexed to the letter of the secretary of the navy of the 16th December, 1805.

"It also appears to your committee, that the above sum of $ 20,000 has never been expended for objects specified in the

item annexed to that letter, and on account of which that sum was included in the appropriation made by the act of the 22d of January, 1806; the sum of $6,941 32 cents only having been expended for objects specified in that item, there remained an unexpended balance of that item of appropriation of $13,058 68 cents.

"In relation to this balance it appears, that it is not known with certainty at the navy department, whether that balance has been applied to other objects of navy expenditures; any farther than from the circumstance that, at that time, the warrants of the navy department 'upon the treasurer were drawn upon the appropriations indiscriminately,' and the 'whole amount of the appropriations having been expended,' it is presumed, or supposed, 'to follow irresistibly that this balance was merged in the general navy expenditures.'

"Inasmuch, therefore, as the amount of this item of appropriation was obtained under the suggestion of an actual and '*defrayed*' expenditure, when, in fact, it was merely an estimated and undefrayed expense, and inasmuch as it appears that it has been expended for objects to which it was originally not destined by law, your committee are of opinion that a farther examination is required into the real objects, to which this unexpended balance, obtained under that suggestion, has been actually applied.

"With respect to that part of the resolution of the 3d of March, 1805, which 'requests the president to cause a sword to be presented to each of the commission officers and midshipmen who distinguished themselves in the attack on the town, batteries, and naval force of Tripoli,' in the execution of which, the secretary of the navy states, that 'it is presumed that the president saw what to his mind appeared difficulties of great delicacy, from the peculiar language of the resolution;' your committee cannot but regret that the terms of the resolution should have been such as to prevent the officers and midshipmen of that squadron from receiving the decreed and well deserved marks of their country's gratitude and honour. It is, however, apparent to your committee, that congress, by passing the resolution of the 3d of March, 1805, did decide that some of the officers and midshipmen, engaged in that service, were entitled to and should receive the destined testimony of the nation's sense of their merit. If, as is suggested in the letter of the secretary of the navy, the nature of the service and the equality of desert make discrimination difficult, your committee are of opinion, that, under such circumstances, it is better and more worthy of the national character, that all should receive the

destined reward, than that it should be withheld from all. The universality of distribution (should, in the opinion of the president, 'all have acted gloriously') will be a testimony of general merit, and to each individual an evidence of his having been a partaker of the glory of that service. A total neglect of such distribution, after so distinct and public an acknowledgment of the title of some, is, in the opinion of your committee, doing justice to none. Under these impressions—considering that the conduct of the squadron under the command of commodore Preble, in the harbour and before the batteries of Tripoli, constitutes one of the most brilliant portions of our naval history; considering that the resolution passed on the 3d of March, 1805, raised just expectations in the officers and midshipmen engaged in that service, of receiving some distinct token of their country's favour; considering, also, the great importance, at this crisis of our affairs, of not discouraging the spirit of our naval commanders, by withholding rewards, to which they have already been declared, by a solemn resolution of congress, to be entitled; your committee have deemed it their duty to recommend a renewal of the appropriation, to the amount of the unexpended balance above stated, to enable the president of the United States to carry into full effect the resolution of the 3d of March, 1805."

§ 17. On the 23d of December, on motion of Mr. Quincy, a committee was appointed by the house of representatives to enquire into the principles and practice adopted by the treasury department in relation to the revenue laws, and to the mitigating and remitting the fines, penalties, and forfeitures accruing under the same. On the 27th of February the committee reported, that they had had an interview with the secretary of the treasury, and examined such papers as they deemed necessary for the due execution of their trust; and that they had addressed a letter to him, and received one in reply, on the subject, which accompanied their report. The committee stated, that, as far as they were enabled to judge, the remitting and mitigating powers had been used in a manner liberal and just. The committee, in their letter to the secretary, make the following enquiries:

1. Whether, in cases of "intention of fraud" existing, the department deems itself authorised either to remit or mitigate?

2. Whether, in cases of 'wilful negligence' existing, the department deems itself authorised either to remit or mitigate?

3. Whether, in cases where neither one or the other exists, the department deems itself at liberty to inflict the whole penalty, or any part of it?

4. If the department have deemed itself at liberty, in cases where no "wilful negligence," and "no fraud" has existed, to inflict the whole penalty or forfeiture, or any part of either, by what general principles has its decision, in such cases, been regulated? particularly, whether the department has deemed itself confined, in relation to such cases, to such a mitigation of the penalty, or forfeiture, as might include the mere incidents of the prosecution, and the "terms and conditions," on which, having reference to such incidents, it should be made to cease: or whether, in relation to such cases, it has deemed itself at liberty to take into consideration other circumstances, such as the profits of the treasury, the gains of the individual, the like, or other considerations, in estimating the amount of the penalty or forfeiture to be exacted?

5. The committee having perceived that, in certain cases where "wilful negligence and fraud" were stated not to exist, the condition of release has been on the payment of "*costs and charges, and a certain per centage, for the use of the United States, in addition to the duty established by law*," inquire by what principles this levy has been regulated? to what cases it has been applied? and what has been the gain to the United States by such payments of per centage?

The committee also request a general statement of the fines, penalties, and forfeitures received by the treasury department, since the date of the establishment, and the expenses which have occurred on prosecutions for them.

To these queries of the committee it was answered:

1. That the secretary of the treasury does not consider himself authorized either to remit or to mitigate in cases where, in his opinion, there has been either intention or fraud or (*statute*) wilful negligence.

2. That he does not consider himself authorised to inflict the whole penalty, in cases where, in his opinion, there has been neither intention of fraud, nor (*statute*) wilful negligence.

3. That he does consider himself authorised, when, in his opinion, necessary and proper, to enforce a part of the penalty in some, and to require the payment of costs in all the cases where, in his opinion, there has been neither intention of fraud, nor (*statute*) wilful negligence.

4. From what has already been stated, it follows that if by "incidents of prosecution," and terms and conditions connected therewith, the payment of costs only be meant, the treasury (with the exception of a few cases of great hardship) has required such payment in all cases of remission or mitigation, and has not deemed itself confined to such payment in those cases

where it appeared necessary and proper to enforce a part of the penalty or forfeiture. The statute grants, in that respect, two distinct powers; that of prescribing the terms and conditions on which prosecutions shall be discontinued, which of course embraces the payment of costs and other incidents of prosecution; and that of mitigating, or remitting only in part, the penalty; which last authority would be nugatory, and would not therefore have been given, had the law intended to confine the effect of that authority to the costs or other similar incidents of prosecution, these being embraced by another part of the enacting clause. In deciding on those cases to which the power of remitting in whole or in part does apply, and in graduating the amount of penalty enforced, in those where it appeared improper to grant an unqualified remission, the treasury has been invariably governed by three principles: 1st, Enforcing the laws; 2dly, Reducing the penalty to that amount, and requiring only that portion, which appeared sufficient for the purpose of preventing infractions; 3dly, Uniform rules of decision, so far as the diversity of cases rendered them practicable. In the application of those principles to individual cases, several circumstances have naturally been taken into consideration, such as the degree of negligence manifested by the party; the importance, for the safety of the revenue, of the particular provision, which had been infringed; the encouragement due to the vigilance of the officers; and, when necessary for the purpose of checking illegal importations, the profit derived from the transaction. The gain of the treasury never had any influence on any decision, nor has ever been thought of. The portion of a mitigated penalty sometimes happens to be paid into the treasury, because the law had made one half payable there, if not mitigated. The decisions of the treasury never can add any thing to the amount actually forfeited and otherwise legally payable; and whenever a mitigation takes place, it operates as a deduction from such payment.

The whole number of decisions since the present secretary of the treasury has filled that office, viz. from the 14th of May, 1801, to the 14th December, 1812, amounts to 1,297. In 92 of these cases, there being, in the opinion of the treasury, intent of fraud or (*statute*) wilful negligence, no remission could be granted. Of the 1,205 other cases, to which the power of remitting in whole or in part applied, there have been 888, in which an absolute remission has been granted, generally on payment of costs; and 317 have been mitigated. In about two thirds of these, nothing more has been inflicted than the payment of sums, generally inconsiderable, to the use of the custom-

house officers. Of the residue, there are 27, consisting of three embargo cases, and of 24 cases of illegal importations, principally from Amelia Island, or in vessels at sea when war was declared, in which the decision has been; that from the net proceeds of sales, the costs, and (in the cases of importation) the duties in force when the decisions took place, should be deducted; that the residue, if not exceeding the prime cost, freight, insurance, and other charges, should be paid to the claimants; and that the surplus, if any, should be distributed in the same manner as the whole forfeiture, if enforced, would have been. In one of those cases 150 dollars have been paid into the treasury. It is ascertained, that in many of them there is no surplus; and the same result is anticipated in most others. In 67 other cases hereafter stated, in answer to the last quere of the committee, the whole amount paid into the treasury falls short of four thousand dollars. There may be eight or ten more cases of mitigations, in which some payments have been or may be made into the treasury, and which, not being sufficiently designated in the register of decisions, could not be ascertained without a critical examination of all the original papers. The amount of penalties and forfeitures actually paid into the treasury, and which is hereafter stated, arises almost exclusively from cases of fraudulent infractions of the laws, on which no remission whatever could take place, and in most of which no application has of course been made to the treasury.

5. In cases where a fine is mitigated, it is always done by fixing a sum of money less than the fine. When a forfeiture is mitigated, it is more consistent with the spirit of the law, that the reduced payment which is required should still be in proportion to the value of the whole forfeiture incurred. This principle has been adopted in those cases designated, as having been mitigated by requiring the payment of a *per centage*. All those which have been ascertained amount to sixty-seven, as already stated, and consist of two classes.

1. The first partial non-importation act took effect on the first day of July, 1808. The following rules were adopted, with respect to subsequent importations, not fraudulent and susceptible of remission or mitigation. An absolute remission was granted on all importations in vessels which had sailed from a British port prior to the 1st of June, 1808, on the ground that there was a possibility of their arrival prior to the time when the law took effect. The forfeiture was mitigated in the subsequent cases, and no greater portion required than what appeared absolutely necessary to prevent continual infractions. For that purpose, the forfeiture was reduced to the payment of a sum

equal to double the amount of the legal duties, to be divided as the forfeiture itself, if enforced, would have been. But that sum was levied only on the articles actually prohibited, and not on those otherwise admissible and belonging to the same owners, though they were also forfeited by the law. There were 37 cases of this description. It has been ascertained that the sum paid in the treasury on 30 of them amounts to $1,647 44 cents. The sum paid on the seven other cases is blended in the collectors' accounts with the ordinary duties, but, from the value of the merchandize, is estimated to have been less than nine hundred and sixty dollars. The forfeitures remitted by those same decisions are believed to have exceeded half a million of dollars in value.

2. The importation of spirits, porter, and refined sugar, is prohibited in vessels or casks of a size less than is prescribed by law. In the first decisions made on those cases, the condition of the remission was, that the articles imported contrary to law should be re-exported, without giving any other option to the owners. The only exception, whilst that rule prevailed, is Gillespie's case, where the spirits had been sold by order of court prior to the application for a remission being made. The condition of paying one fourth part of the proceeds was substituted to that of re-exportation, which had become impracticable. The share of the United States, contrary to what was intended, did not in that case cover the legal duties. It being from experience ascertained that the condition of an absolute re-exportation was sometimes impracticable, and in most cases more severe than was required for the purpose of preventing infractions of the law, an alteration was added to that condition, by leaving it optional with the claimants, if they did not re-export, to pay a certain sum, which, after some variations, was fixed at the rate of five cents per gallon of spirits, for the use of the United States, in addition to the legal duties. But in all the cases, two only excepted, where the omission arose from inadvertence in filling the decisions, the condition of the re-exportation has always been preserved, and the payment aforesaid imposed only in case of not complying with that condition. The cases of this description in which any money may have been paid in the treasury amount to thirty. The actual payments, being blended with the accounts of duties, cannot be ascertained. But the amount of of spirits, porter, and sugar, embraced by those cases have been ascertained from the applications for remission; and it appears, that if no part has been re-exported, and if in every instance the parties have preferred to pay the sum to which the forfeiture

was reduced, the whole amount paid in the treasury cannot have exceeded $ 1,400, and may therefore have been less.

The fines, penalties, and forfeitures paid by the collectors in the treasury, from the 1st of January, 1794, to the 31st of December, 1811, amount to 253,508 dollars and 5 cents. The expenses of prosecution in those cases, as paid by the marshals, cannot be discriminated from the general expenses paid generally for jurors, witnesses, and all other expenses incident to the prosecutions of every species of offences against the United States, including the safe keeping of prisoners. The aggregate of all these amounts, for the same period, to 857,206 dollars and 69 cents. There can be no douht that the portion expended in prosecuting for the offences against the revenue and restrictive laws, under which the above mentioned fines, penalties, and forfeitures have been incurred and paid, considerably exceeds the amount actually recovered and paid in the treasury; and that those penalties have never been a source of revenue, nor been sufficient to defray the expenses of prosecution; for which object they are exclusively appropriated by law.

§ 18. On the 8th of February, the senate and house of representatives, by a joint resolution, appointed three members from each house as a committee to ascertain and report a mode of examining the votes for president and vice-president of the United States, and of notifying the persons elected of their election, who next day reported the following resolution, which was agreed to by both houses.

Resolved, That the two houses shall assemble in the chamber of the house of representatives on Wednesday next, at 12 o'clock. That two persons be appointed tellers on the part of the house to make a list of all the votes as they shall be declared. That the result shall be delivered to the president of the senate, who shall announce the state of the votes and the persons elected, to the two houses assembled as aforesaid, which shall be deemed a declaration of the persons elected president and vice-president, and, together with a list of the votes, be entered on the journals of the two houses.

Accordingly, on Wednesday, February 10th, at the hour of twelve, the senate entered the hall of representatives, preceded by their president, secretary, sergeant at arms, and door-keeper, and proceeded to seats prepared for them, the members of the house having risen to receive them, and remaining standing until all had entered. The president of the senate took a seat which had been prepared for him at the speaker's right hand, and the secretary of the senate was placed beside the clerk of the house. The tellers, Mr. Franklin of the senate, and Messrs.

Macon and Tallmadge of the house, were seated at a table in front of the speaker's chair.

The president of the senate then proceeded to open and hand to the tellers the sealed returns from each state, which were read aloud by one of the tellers, and noted down and announced by the secretaries of each house.

The votes having all been opened and read, the following result was announced from the chair by the president of the senate, viz.

For President.

James Madison, of Virginia,	128
Dewitt Clinton, of New York,	89

For Vice-President.

Elbridge Gerry, of Massachusetts,	131
Jared Ingersoll, of Pennsylvania,	68

The president of the senate then declared James Madison to be elected president of the United States for four years ensuing the 4th day of March next, and Elbridge Gerry vice-president of the United States for a like term of years.

The senate then departed from the house in the order and manner they had entered.

On the Saturday following, a committee of two from the senate, and three from the house of representatives, were appointed to wait on the president, and inform him of his re-election.

§ 19. The following messages from the president were laid before congress in the course of the session in addition to those already mentioned.

§ 20. 1. A message transmitting a letter from Mr. Lear, the consul general at Algiers, stating the circumstances preceding and attending his departure from that regency.

From this document it appears, that on the 17th of July, 1812, a ship arrived at Algiers, which had been despatched by the government of the United States with a cargo of naval and military stores for the regency, in fulfilment of treaty stipulations. That on an invoice of the articles being laid before the dey, he became very outrageous on finding that the whole of the stores that he had ordered had not been sent, and declared that he would not receive the cargo, and that the consul must depart in the ship, as none should remain in his regency who did not cause every thing to be brought exactly as he ordered.

In vain did the consul urge the punctuality of the United States in her payments, and the almost impracticability of her furnishing such large supplies at one time, in the present distracted state of the world; the dey insisted upon having every thing brought which he ordered, without regarding whether it amounted to more than the sum stipulated in the treaty or not;

and orders were issued that the vessel should depart in two days, with the consul and all the Americans then in Algiers.

The following day, on a settlement taking place between the American consul and the prime minister, respecting the annuities stipulated by the treaty, there appeared a difference of six months annuity in their statements, owing to the year being counted by the Algerines by the Mahometan calender, which consists of 354 days. The consul objected to this mode of calculation, but the objection was overruled, and he was informed that the balance due by the United States, amounting by the dey's account to $27,000, must be paid immediately in cash, or that he should be sent to the marine in chains, the vessel and cargo confiscated, all the citizens of the United States in Algiers be detained in slavery, and war instantly declared against the United States.

Several efforts were made by the consul, aided by the ministers of the dey, to induce him to alter this determination, and come to some accommodation, but all proved unavailing; and the consul was under the necessity of borrowing money at a discount of 25 per cent. to enable him to comply with the requisitions of this despotic chief. This step was taken, as the loss of that sum to the United States was deemed a smaller evil, than the confiscation of the vessel and cargo, the slavery of the Americans in Algiers, and the consequences that would result to the unprotected commerce of the United States from a war, without the possibility of communicating any previous notice.

The sum demanded was accordingly paid, on the following day, and the consul and other Americans sailed immediately for Gibraltar*.

§ 21. 2. A message transmitting a correspondence between John Mitchell, agent for American prisoners of war at Halifax, and the British admiral commanding at that station; also a letter from commodore Rodgers to the secretary of the navy, throwing further light upon the impressment and treatment of American seamen.

§ 22. 3. A message communicating resolutions of the legislature of Pennsylvania, approbatory of the measures of the general government with respect to our foreign relations.

§ 23. 4. Messages transmitting letters from captains Decatur, Jones, and Bainbridge, and lieutenant Elliot, reporting their brilliant exploits.

§ 24. 5. A message transmitting a proclamation of the British governor of Bermuda, providing for the supply of the British West Indies by a trade under licences, accompanied with a

* This unfortunate vessel was condemned at Gibraltar by the British.

circular instruction, confining, if practicable, the trade to the eastern ports of the United States.

This message contains some remarks on the policy of Great Britain, and her mode of warfare, and recommends to the consideration of congress, the better to guard against the effects of individual cupidity and treachery, the expediency of an effectual prohibition of any trade whatever, by citizens or inhabitants of the United States, under special licences, and, in aid thereof, a prohibition of all exports under foreign bottoms.

§ 25. 6. A message transmitting a correspondence relative to the repeal of the Berlin and Milan decrees, and touching the relations between the United States and France, in pursuance of a resolution of the house of representatives of the first of March, 1813.

The subject of this message gave rise to a great deal of discussion in the following session of congress, and resolutions were passed by the house of representatives, requesting further information on the subject, in consequence of which a more full elucidation was laid before them, a particular account of which will be found in the proceedings of that session.

The whole of the presidential messages with the accompanying documents will be found in a subsequent part of this volume, excepting the letters containing the accounts of the naval captures, which are given in their proper place in volume 2.

§ 26. The following appropriations were made by congress during the session.

For defraying the expenses of the military establishment of the United States, including the volunteers and militia in actual service, for the year 1813, for the Indian department, and for the expense of fortifications, arsenals, and armories, the following sums, that is to say:

For the pay of the army of the United States, including the pay of the artificers and labourers in the quarter-master-general's and ordnance departments, and of the private servants kept by officers, and for the pay of the volunteers and militia in the actual service of the United States,	$ 5,168,803
For forage to officers,	109,224
For the subsistence of the army, and volunteers and militia,	2,977,531
For clothing,	2,015,884
For bounties and premiums,	557,740
For camp and field equipage,	270,000
For the medical and hospital departments,	200,000
For ordnance and ordnance stores,	928,000

For fortifications,	497,000
For arsenals, magazines, and armories,	352,208
For the quarter-master-general's department, including fuel, straw, barrels, quarters, tools, and all expenses incident to transportation,	2,300,000
For contingencies,	305,317
For purchasing books, maps, and plans,	2,500
For the salary of the commissary-general of purchases,	3,000
For the salary of the clerks employed in the offices of the adjutant-general, of the commissary-general, and of the quarter-master-general,	8,000
For the purchase of books and apparatus for the military academy,	12,000
For the Indian department,	164,500
For the repayment of the sum of 527 dollars, being a balance due the state of Maryland of monies paid by that state to the United States, as the purchase money of public arms, which had not been fully supplied.	527

For defraying the expenses of the navy, during the year 1813, the following sums, that is to say:

For the pay and subsistence of the officers, and pay of the seamen,	$ 1,668,000	
For pay due to the officers and crews of the public ships and other vessels in commission for the year 1812,	365,000	
For provisions,	775,000	
For medicines, instruments, hospital stores, and all expenses on account of the sick,	100,000	
For repair of vessels,	640,000	
For freight, store rent, all other contingent expenses,	250,000	
For expenses of navy-yards, comprising docks and other improvements, pay of superintendants, store-keepers, clerks, and labourers,	90,000	
For ordnance, and for ordnance and military stores,	100,000	
For pay and subsistence of the marine corps, including provisions for those on shore, and forage for the staff,	245,391	70
For clothing for the same	71,788	10
For military stores, for the same,	27,608	75
For medicine, medical services, hospital stores,		

and all other expenses on account of the sick belonging to the marine corps,	20,000
For quarter-masters' and barrack-masters' stores, officers' travelling expenses, armorers' and carpenters' bill, fuel, premiums for enlisting men, musical instruments, bounty to music, and other contingent expenses of the marine corps,	46,000
For building and equipping four seventy-fours and six frigates,	2,500,000
For building six sloops of war, and for building vessels on the lakes,	900,000
For establishing a dock yard,	100,000
For defraying the expense of preparing, printing, signing, &c., the treasury notes, and for commissions on their sale,	65,000
For rewarding the officers and crews of the Constitution and Wasp,	125,000
For alterations and repairs in the capitol,	5,000

§ 27. This session of congress ended on the 3d of March, 1813, by the expiration of their constitutional term.

13*th* CONGRESS—1*st* SESSION.

CHAPTER IV.

§ 1. Meeting of the 13th congress. § 2. Election of speaker. § 3. Message of the president. § 4. Russian mediation. § 5. Conduct of the war. § 6. Internal revenue. § 7. Treasury report. § 8. Report of the committee of ways and means. § 9. Direct Tax. § 10. Tax on stills. § 11. On refined sugar. § 12. On licences to retailers. § 13. On sales at auction. § 14. Duties on carriages. § 15. Stamp duties. § 16. Commencement of the taxes. § 17. Penalties. § 18. Terms of payment. § 19. Collection. § 20. Assessment and collection of the direct taxes. § 21. Continuance of the internal duties. § 22. Debate on the tax bills. § 23. Votes on their passage. § 24. Tax on imported salt.

§ 1. A NUMBER of important objects having been left unfinished by the constitutional demise of the 12th congress on the 4th of March, 1813, particularly the settling a revenue to meet the increased expences incident to a state of war, and to make up the deficiencies occasioned by the consequent stagnation of commerce, it became necessary to hold an extra session early in the ensuing summer. The 24th of May had therefore been fixed by law for that purpose.

Accordingly, at 12 o'clock of that day, Elbridge Gerry, esq. the vice-president of the United States, took his seat in the senate chamber. On calling over the roll it appeared that there were 25 members present, which being more than a quorum, the vice-president rose and delivered an appropriate address, and the usual preparatory orders were adopted.

In the house of representatives, the late clerk called to order precisely at 12; the roll of the members was then called over by states, when it appeared that 148 members had answered to their names.

§ 2. A large majority having been thus ascertained to be present, the house proceeded to the choice of a speaker. Three tellers were named by the clerk, who, after counting the ballots, reported the votes as follows:

For Henry Clay	89
Timothy Pitkin	54
Scattering	5

Mr. Clay being accordingly declared duly elected, was conducted by the tellers to the chair, from which, after having been sworn, he addressed the house in an appropriate speech.

The members were then sworn in by states, after which the house elected their clerk, door-keepers, and sergeant at arms*. After the usual orders were adopted in respect to furnishing the members with newspapers, &c., a committee was appointed jointly with a committee from the senate, to wait on the president, and inform him that the two houses were ready to receive any communication he might have to make.

§ 3. The following day the president, as usual, transmitted his message to both houses.

§ 4. In this communication, the president commences by noticing his acceptance of the formal offer made by the emperor of Russia, of his mediation, as the common friend of both parties, for the purpose of bringing about a peace between the United States and Great Britain, and of the appointment of the American commissioners without waiting for the acceptance of Great Britain, to avoid the delay incident to the distance of the parties.

After observing, that, although no adequate motives exist on the part of Britain to prefer a continuance of war to the terms on which the United States are willing to close, the president suggests that it is our true policy, to adapt our measures to the supposition, that the only course to that happy event is in the vigorous prosecution of the war.

§ 5. As an encouragement to perseverance, he notices the brilliant achievements of our infant navy, the success of the army at York, and the repulse of the enemy at fort Meigs.

§ 6. The president then, adverting to the situation of the treasury, urges the necessity of providing a well digested system of internal revenue. This, he observes, will have the effect not only of abridging the amount of necessary loans, but of improving the terms on which they may be obtained. In recommending, continues he, "this resort to additional taxes, I feel great satisfaction in the assurance, that our constituents, who have already displayed so much zeal and firmness in the cause of their country, will cheerfully give every other proof of their patriotism which it calls for." He then adds, "by rendering the public resources certain, and commensurate to the public exigencies, the constituted authorities will be able to prosecute the war more rapidly to its proper issue; every hostile hope founded on a calculated failure of our resources will be cut off;" and thus "the best security will be provided against future enterprizes on the rights or the peace of the nation."

* The chaplain was chosen on the Wednesday following.

§ 7. On the third of June the treasury report was laid before the house of representatives, and was by them referred to the committee of ways and means.

The report states that the receipts into the treasury from October 1, 1812, to March 31, 1813, amounted to $ 15,412,416 25
The balance in the treasury on Sept. 30, was 2,362,652 69

Making together 17,775,068 94

Expenditures for same period 15,919,334 41
Balance in the treasury April 1 1,855,734 53

17,775,068 94

In the above statement of receipts is included the sum of $ 1,086,737 50, being that part of the loan of 16 millions paid into the treasury prior to April 1.

The resources for the residue of the year 1813 consist of the following items, viz.

1. The remainder of the loan above mentioned $ 14,913,262 50
2. The sums payable on account of customs and of the sales of public lands, estimated at 9,320,000 00
3. The five millions of dollars in treasury notes, authorized by the act of February 25, 1813 5,000,000 00

Say $ 29,230,000 00

The expenses for the last nine months of the present year are calculated as followeth, viz.

1. Civil list, and all expenses of a civil nature, both foreign and domestic 900,000 00
2. Payments on account of the principal and interest of the public debt 10,510,000 00
3. Expenses on account of the war and navy departments 17,820,000 00

$ 29,230,000 00

The above provision being for the present year only, the report suggests the necessity of attending to that for the year 1814 also, and points out the necessity of speedy and effectual means being resorted to for the purpose, as a basis for which it states, that the expenses of the peace establishment, and the interest of the public debt, including that on the loans made for the prose-

cution of the war, were the least that ought to be raised within each year, and these it states as follows:

Peace establishment, exclusive of the additional force raised in 1812	$ 7,000,000
Interest of public debt, including that on loan for 1814	4,400,000
	11,400,000
The present revenue is estimated to produce for 1814	5,800,000
Leaving to be raised	5,600,000
	11,400,000
To supply which sum of $ 5,600,000	
The internal taxes heretofore proposed were estimated at	5,000,000
Duty on imported salt, at 20 cents per bushel	600,000
	5,600,000

§ 8. On the 10th of June, the committee of ways and means made their report, in which they state, that they have reviewed the system heretofore presented, and, taking into consideration its having been sanctioned in its principles by a vote of the house of representatives, have determined to recommend its adoption, with some modifications, in preference to commencing a new system. To meet the sum of $ 5,600,000, stated by the secretary of the treasuryto be necessary to be raised for the service of the year 1814, in addition to the existing revenue, the committee proposed

A direct tax of	3,000,000
And internal duties as follow:	
On stills	765,000
On refined sugars	200,000
On retailers' licences	500,000
On sales at auction	50,000
On carriages	150,000
On bank notes and negociable paper	400,000
On salt, at 20 cents a bushel	400,000
Additional duty on foreign tonnage	900,000
	6,365,000
Expenses of collection and losses deducted	750,000
Leaves	$ 5,615,000

The necessary bills accompanied the report.

Instead of following these bills through the several minute and tiresome details of their passage through both houses, we shall present a digested view of the whole system of internal revenue, as it finally passed, and then give a brief sketch of the arguments pro and con.

The laws imposing internal taxes are seven in number, viz.

§ 9. I. A direct tax of three millions of dollars, apportioned to the states, according to the constitutional provision, which ordains that "direct taxes shall be apportioned among the several states, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to serve for a term of years, and excluding Indians not taxed, three fifths of all other persons."

The quotas of the states are subdivided into portions to be raised in each county, subject to be changed in each state, so as to be more equally or equitably apportioned, by an act of its respective legislature, provided an authenticated copy of the act changing the apportionment be deposited in the office of the secretary of the treasury prior to the first of April, 1814.

The following is the mode adopted for ascertaining the quotas of the counties in the several states:

In those states where there is a state tax, the apportionment of that tax among the counties of the state has been made the rule for apportioning the direct tax; and the quota of each county, of the direct tax, has been made to bear the same proportion to the whole quota of the state, as the amount of the state tax, paid by such county, bears to the whole sum paid in the state for the state tax.

In those states where there is no state tax, or if there be one, the proportions in which it is apportioned among the counties is not known, the principle assumed for a basis is, that the comparative advancement of wealth (or rather the increase in the value of property, subject to the direct tax now to be imposed) and of population in the different districts of the same state, have been equal, since the year 1799; so that if a given portion of a state containing, for example, one fourth of the population of the state, and which paid in 1799 one fourth of the direct tax of that state, now contains one third of the whole population of the state, it ought now to pay one third of the whole tax to be imposed upon the state. And in respect to *population* for both epochs, although the *federal numbers*, or numbers represented in congress, have been taken as the constitution directs, for ascertaining the quota of each state, of the whole sum to be raised in the United States, yet, for apportioning the sum thus found

as the quota of any state, among the several counties of that state, the whole numbers of the several counties, including slaves, have been taken; because it is considered that the slaves increase the wealth, or the ability to pay, in a ratio at least equal to the augmented quota which this mode will give to those parts of a state in which slaves are possessed, over those in which there are none or a smaller number. Maryland is the only state where there is a considerable proportion of slaves, to which this mode of apportioning the tax among the counties has been applied.

The process then is, to make the quota of each county in a given state, compared with its population in 1810, bear the same proportion to the present quota of the state, compared with its whole population in 1810, as the quota of the same county, of the direct tax of 1799, compared with its population by the census of 1800, bore to the quota of the whole state of the direct tax of 1799, compared with its whole population in 1800.

To effect this there must be found:

1. The proportion which the population of each county in 1800 bore to the population of the whole state at that time.

2. The proportion which the population of the same county bore in 1810 to the population of the whole state in 1810.

3. Then, as the ratio found by No. 1, is to the ratio found by No. 2, so is the quota which the county paid, of the direct tax in 1799, to the sum which would be payable by the same county, of a direct tax at this time, of which the quota of the state in question, would be the same as was the quota of that state of the direct tax, in 1799.

4. Lastly, as the quota of the state in 1799 is to the quota of the state under the direct tax now to be imposed, so is the sum found by No. 3, to the quota of the county under the direct tax now to be imposed.

Exemplified by Rockingham county, New Hampshire:

1. The total population of New Hampshire in 1800, was 183,858, and of Rockingham county, at the same time, 45,427. The proportion 24.7.

2. The total population of New Hampshire, in 1810, was 214,360; of Rockingham county, at the same time, 50,175. The proportion 23.4.

3. The quota of Rockingham county of the direct tax of 1799, was 27,743 dollars. Then, as 24.7 : 23.4 : : 27,473 : 26,027 dollars, the sum which would be payable by Rockingham county, if the quota of the state of New Hampshire were now the same as it was in 1799.

4. The quota of New Hampshire (as finally assessed) in 1799, was 77,968 dollars. The quota now proposed for it, is $ 96,793 37. Then, as 77,968 : 96,793 37 : : 26,027 : 32,311 21, the sum now payable by Rockingham county. Although mathematical accuracy has not thus been attained, no considerable inequality is believed to have been occasioned; and the proposed provision, by which the right is given to the states of altering the quotas of their counties, whenever their legislatures should deem an unjust or unequal apportionment to have been made by the act of congress, has been considered as securing the people of every part of the country from an unfair or oppressive bearing of the tax upon them.

States in which the quotas of counties have been found by comparing their population in 1810 with that in 1800, and the direct tax of 1799: New Hampshire, Rhode Island, Vermont, New York, Pennsylvania, Delaware, and Maryland.

States in which the quotas of counties have been made to bear the same proportion to the whole quota of the state, as the amount of the state taxes in each county bears to the whole amount of the state tax in each state: Massachusetts, Connecticut, New Jersey, Virginia, North Carolina, South Carolina, Georgia, Ohio, and Kentucky.

In Tennessee and Louisiana, the necessary information respecting state taxes has not yet been received.

The act likewise provides that each state may pay its quota into the treasury of the United States, on which a deduction of 15 per cent. will be made, if paid before the tenth of February, and of 10 per cent. if paid before the first of May, 1814, provided the state give the secretary notice of its intention one month prior to such payment.

Quotas of the States.

New Hampshire	$ 96,793 37
Rhode Island	34,702 18
Vermont	98,343 71
New York	430,141 62
Pennsylvania	365,479 16
Delaware	32,046 25
Maryland	151,623 94
Massachusetts	316,270 98
Connecticut	118,167 71
New Jersey	108,871 83
Virginia	369,018 44
North Carolina	220,238 28
South Carolina	151,905 46
Georgia	94,936 49

Ohio	104,150 14
Kentucky	168,928 76

§ 10. II. Duties on licenses to distillers of spirituous liquors, estimated to produce $ 765,000.

These duties are laid on the capacity of the still, including the head, and are rated as follow: On stills employed in distilling from

Domestic Materials.

For 2 weeks	9 cents per gallon
1 month	18 do. do.
2 months	32 do. do.
3 months	42 do. do.
4 months	52 do. do.
6 months	70 do. do.
one year	108 do. do.

Foreign Materials.

For 1 month	25 cents per gallon
3 months	60 do. do.
6 months	105 do. do.
one year	135 do. do.

For every boiler, however constructed, employed for the purpose of generating steam in those distilleries where wooden or other vessels are used instead of metal stills, and the action of steam is substituted to the immediate application of fire to the materials from which the spirituous liquors are distilled, double the amount of the above duties on each gallon of the capacity of the boiler, including the head.

§ 11. III. A duty of 4 cents per pound on all sugar refined within the United States, entitled, however, to drawback on exportation, if amounting to $ 12 or upwards, estimated to produce $ 200,000.

§ 12. IV. Duties on licenses to retailers of wines, spirituous liquors, and foreign merchandize as follow, estimated to produce $ 500,000.

In cities, towns, or villages, containing, within the limits of one mile square, more than 100 *families.*

On retailers of merchandize, including wines and spirits	$ 25 per annum.
of wines alone	20
of spirits alone	20
of domestic spirits alone	15
of merchandize other than wines and spirits	15

In places containing, within the above limits, less than 100 *families.*

On retailers of merchandize, including wines and spirits	$ 15 per annum.
of wines and spirits	15
of spirits alone	12
of domestic spirits alone	10
of merchandize other than wines and spirits	10

Every person dealing in goods, wares, or merchandize, except such as are of the growth, produce, or manufacture of the United States, except such as are sold by the importer in the original cask, package, &c. in which they were imported, is deemed a retail dealer in merchandize within the meaning of the act; every person dealing in wines in less quantities at a time than 30 gallons, except the importer as above, is deemed a retail dealer in wines; and every person dealing in distilled spirituous liquors in less quantities than 20 gallons at a time, is deemed a retail dealer in spirituous liquors. Exceptions are drawn in favour of physicians, apothecaries, &c. as to wines and spirituous liquors used in the preparation of medicines; and of distillers, who may sell domestic spirits in quantities not less than five gallons at a time at the place where they are distilled.

§ 13. V. A duty on sales at auction of one per cent. on sales of goods, wares, and merchandize, and a quarter of one per cent. on sales of ships or vessels, estimated to produce $ 50,000.

The following sales are exempted from those duties, viz. sales of goods, &c. made in execution of any rule, judgment, &c. of any court of the United States, or in virtue of any distress for rent, or any other cause for which a distress is allowed by law, or made in consequence of any bankruptcy or insolvency, pursuant to any law concerning bankruptcies or insolvencies; or made in consequence of any general assignment of property and effects for the benefit of creditors; or made by or on behalf of executors or administrators; or made pursuant to the directions of any law of the United States, or either of them, touching the collection of any tax or duty; or disposal by auction of public property of the United States or of any state; or to any sale by auction of ships, their tackle, apparel, and furniture, or the cargoes thereof, wrecked or stranded within the United States, and sold for the benefit of the insurers or proprietors.

§ 14. VI. Duties on carriages as follows, estimated to produce $ 150,000, viz.

On every coach	$ 20 per annum
On every chariot and post-chaise	17

On every phæton and coachee having pannel work in the upper division	10 per annum
On every other four wheel carriage hanging on steel or iron springs	7
On every four wheel carriage on wooden springs, and every two wheel carriage on steel or iron springs	4
On every other four or two wheel carriage	2

In cases of doubt, carriages are to be deemed to belong to that class which they most nearly resemble.

All carriages usually and chiefly employed in husbandry, or in the transportation of goods, are exempted from duty.

§ 15. VII. Stamp duties on bank notes, and on certain negociable paper, estimated to produce $ 400,000, viz.

On bank notes

Not exceeding $ 1	1 cent
Above 1 and not exceeding 2	2
Above 2 and not exceeding 3	3
Above 3 and not exceeding 5	5
Above 5 and not exceeding 10	10
Above 10 and not exceeding 20	20
Above 20 and not exceeding 50	50
Above 50 and not exceeding 100	100
Above 100 and not exceeding 500	500
Above 500 and not exceeding 1000	1000
Above 1000	5000

On bonds, obligations, or promissory notes, dicounted by any bank company, or banker, and on foreign or inland bills of exchange above $ 50, *and having one or more endorsers.*

Not exceeding $ 100	5 cents
Above 100 and not exceeding 200	10
Above 200 and not exceeding 500	25
Above 500 and not exceeding 1000	50
Above 1000 and not exceeding 1500	75
Above 1500 and not exceeding 2000	100
Above 2000 and not exceeding 3000	150
Above 3000 and not exceeding 4000	200
Above 4000 and not exceeding 5000	250
Above 5000 and not exceeding 7000	350
Above 7000 and not exceeding 8000	400
If above 8000	500

Treasury notes, drafts or bills drawn by the treasurer of the United States, checks payable at sight, and all second or other copy of a set of exchange, are exempted from duty; and banks

are allowed to compound for the stamps on their notes by paying 1¼ per cent on the amount of their dividends.

§ 16. The internal duties go into operation on January 1, 1814, on which day persons affected by them become liable to the following penalties, for breaches of their provisions:

§ 17. PENALTIES.

On Distillers.

For distilling without a license (application for which must be made in writing to the collector, stating the place of distilling, the number and contents of the stills or boilers, and the materials to be used), $100, with double duties for the term the stills have been used without license, and costs of suit.

For a false statement, or for distilling from materials other than those stated in the application, $150, with costs of suit.

For refusing to admit the collector into the distillery at all reasonable times, or to suffer him to examine or measure the stills or boilers, $500.

On Sugar Refiners.

For neglecting, on the 1st of January, 1814, or, afterwards, at least twenty days previous to commencing business, to enter in the collector's office, the building where the manufactory is carried on, and the capacity of every pan or boiler employed; and for neglecting to give bond in the sum of $5000, that a regular account shall be kept of all sugar refined, and of all the quantities sent out of the manufactory, of which a just account shall be rendered, together with a particular report of the buildings, pans, and boilers employed, on the 1st day of every April, July, October, and January, and the duties on all that has been sent out paid or secured to be paid, on such day, a penalty of $500, and costs of suit, together with the forfeiture of every pan and boiler that has been used.

All sugar manufacured within the United States after the first of January, 1814, shall be forfeited on default of the payment of duties thereon.

On Retailers of Wines, Spirituous Liquors, and Foreign Merchandize.

For selling by retail without a license from the collector (renewable yearly, on payment of the duty), or for selling at more than one place at a time, without a license for each place, $150, in addition to the payment of the duty, with costs of suit.

On Auctioneers.

For selling by auction without a license, either from the state authority, or from the United States' collector, $400, for every such sale, in addition to the duties on the goods sold. [Licenses may be had gratis, on giving bond to the collector, on the conditions below stated, in every place in respect to which there is no state law regulating the business of an auctioneer.]

For selling by auction, under a state license or authority, without giving notice in writing to the United States' collector, on the first of January, 1814, or within thirty days after the receipt of the state license, specifying in such notice the date or commencement of such license, the term for which it was given, by whom, and by what law of a state it was granted; and also giving bond in a sum not less than one nor more than three thousand dollars, with condition of delivering on the first day of every April, July, October, and January, a true account, verified by oath or affirmation, of the several articles sold, the price of each, and by whom bought, and paying the duties accruing thereon,—a penalty of $400 for every such sale, together with the duties. [A like notice and bond must be given as often as the state license shall expire and be renewed, under a like penalty.]

For refusing to submit to the examination of the collector at all reasonable times, the original book of entry of sales, $500.

On Owners of Carriages.

For neglecting to make entry and receive a certificate on payment of the duty on the day appointed by the collector, of which he must give public notice at least ten days previous, or within sixty days from the time on which the duty commences, the duty, with an addition of 25 per cent. which may be raised by distress.

For neglecting to make entry and receive a certificate on payment of the duty within a month after commencing keeping a carriage, at any time after the month of December, the duty from the time of such commencement to the end of the year, with an addition of 25 per cent., to be raised by distress.

For making an untrue or defective entry, a forfeiture of the sum paid pursuant to such entry, besides the real duty, with an addition of 25 per cent., if not paid within 60 days from the time the duty commences, to be raised by distress.—[Certificates are to be granted whenever the duty is collected, whether by distress or otherwise.]

For evading the Stamp Duties.

In the case of a private individual, for each fraudulent evasion, $100.

In the case of a person in office, who shall evade the duties in the execution of his public employment, $500, besides forfeiting his office if in the service of the United States, and being for ever disabled from again holding it.

Instruments chargeable with duty cannot be admitted as evidence in any court if unstamped, or stamped for a lower duty than ought to have been paid; but they may be rendered valid by a receipt from the district collector endorsed on them, for the duty or addition of duty chargeable by law, with ten dollars over and above.

In the case of banks, excepting those that have compounded for the duty, the value of each bill or promissory note issued on other than paper duly stamped.

§ 18. TERMS OF PAYMENT OF THE DUTIES.

The duties on licenses to distillers must be paid on receipt of the license, if under $5; if the amount exceed $5, they may be bonded for four months after the expiration of the term for which the license was granted.

Sugar refiners may either pay the duties accruing on all sugars sent out of the building in which it is refined quarterly, with a deduction of six per cent., or give a bond for the same, payable nine months after date; they are bound to make oath or affirmation yearly, if required by the collector, to the truth of the accounts rendered, and to show the original book of entry on furnishing their quarterly accounts.

Licenses to retailers and carriage-certificates must be paid at the time of receiving such license or certificate. In case of the sale of a carriage the certificate is not valid until the name of the new owner is entered on it by the collector.

Auction duties must be paid quarterly, deducting one per cent. for the auctioneer's trouble. Their license is forfeited by a judgment or verdict on their bond.

Stamp duties must be paid at the time of purchasing the stamps; a deduction of $7\frac{1}{2}$ per cent. to be allowed to persons other than collectors on purchasing to the amount of $10, or upwards. Paper, parchment, or vellum, may be deposited at the office of the district collector for the purpose of being stamped by the commissioner of the revenue, and the collector is bound to redeliver it on receiving payment of the duties, after being so stamped.

§ 19. COLLECTION.

For the more convenient collection of the internal duties and

direct taxes, the United States is divided into 191 collection districts, and the president is empowered to divide the District of Columbia and the territories of the United States into convenient districts for the collection of the internal duties only, it being conceived that direct taxes could be constitutionally levied only on the respective states. [See cons. art. I, sect. 2, 3.]

A new officer is appointed in the treasury department, denominated the commissioner of the revenue, who is charged, under the direction of the secretary of that department, with preparing all the forms necessary for the collectors, and for the assessors of the direct taxes; with preparing, signing, and distributing the necessary licenses, and with the superintendance generally of the different collectors, and of the assessors of the direct taxes. He is likewise to superintend the collection of the residue of the former direct tax and internal duties, which may be still outstanding, and to execute the services with respect to lighthouses, and other objects, which were usually performed by the former commissioners of the revenue. The secretary of the treasury is at liberty to place under his superintendance the collection of the duties on impost and tonnage, if, in the secretary's opinion, the public service would be promoted by transferring that duty to him from the comptroller. His salary is fixed at $3000, per annum, and he is allowed a number of clerks, whose salaries, on the whole, are not to exceed $4000 a year.

A collector is to be appointed in each collection district, who must give bond for the faithful discharge of his office. Each collector may appoint deputies, he being responsible for their acts as such, and may assign to them, by instruments under his hand and seal, such portions of his collection district as he may think proper, any of which instruments may be revoked by public notice of the revocation in that part of the district assigned to the deputy. The deputies are to be compensated by the collector. It is the duty of the collectors, in their respective districts, to collect the different internal duties and direct taxes, to receive the different requisite entries, deliver the carriage certificates, countersign and deliver the different licenses, prosecute for the recovery of the duties and penalties, &c. They are to be allowed the following commissions on the monies received and accounted for by them:

On the monies arising from the direct tax, where the quota of the district does not exceed $10,000, 8 per cent.

Exceeding $10,000, and not exceeding 15,000, 7 per cent.
Exceeding 15,000, and not exceeding 20,000, 6 per cent.
Exceeding 20,000, and not exceeding 30,000, 5 per cent.
Exceeding 30,000, and not exceeding 50,000, 4 per cent.
Exceeding 50,000, 3 per cent.

On monies arising from internal duties, 6 per cent.

These commissions, however, not to exceed $4000 to any one collector.

The president is likewise empowered to apportion and distribute annually a sum not exceeding in the whole $25,000, among such collectors as for the execution of the public service it shall appear to him necessary so to compensate, in addition to the other emoluments to which they are entitled: provided, that no such allowance or distribution shall exceed $250 to any one collector, nor shall be made to any collector whose gross emoluments other than this allowance, shall amount to $1000 a year; nor shall, when added to the other gross emoluments of such collector, exceed $1000 a year.

The collectors are further to be allowed, for measuring each still or boiler under the capacity of 100 gallons, 60 cents; and for each above that capacity, 75 cents. They are likewise to be allowed the necessary expenses of books, stationary, &c.

§ 20. ASSESSMENT AND COLLECTION OF THE DIRECT TAXES.

The direct taxes are to be assessed, on the first of February, 1814, on all land, lots of ground, with their improvements, dwelling-houses, and slaves, within the several *states*, which are to be enumerated and valued by the assessors at the rate each of them is worth in money. All property of the above description, however, belonging to the United States, or to any state, or property permanently or specially exempted from taxation by the laws of the state in which it is situated, is exempted from this tax.

An assessor is to be appointed for each of the collection districts within the several states, who is authorized to divide his district into a convenient number of assessment districts, and to appoint an assistant assessor in each, who must, before he enters on the duties of his office, take an oath or affirmation for their faithful discharge, under the penalty of $100. The secretary of the treasury to reduce the number of assessment districts into which any collection district is divided, should the number appear to him too great.

The assistant assessors shall be notified by their respective principal assessors to proceed, on the first of February, 1814 (and, in case of other direct taxes being imposed, on the day appointed by law), through every part of their district, and to require all persons owning, possessing, or having the care or management of any property subject to the tax, to deliver written lists of the same, or disclose the particulars to the asses-

sor. When a disclosure is made, it is the duty of the assessor to make out the list, which, after being distinctly read and consented to, shall be received as the list of such person. The lists, as far as practicable, shall be made conformably to those which may be required for the same purpose under the authority of the respective states.

A penalty is imposed, of not less than $100, nor more than $500, with costs of suit, for the delivery or disclosure of any false or fraudulent list, and in all such cases the assessor is required to make out new lists, according to the best information he can obtain, from which there shall be no appeal.

In case of any person being absent at the time of the assessor's calling to receive his list, it becomes his duty to leave a written note requiring him to present his list to the assessor within ten days. In case of neglect after receiving this notice, the assessor must himself enter on the premises, and make out the list, from his own view, and according to the best information he can obtain, which list shall be esteemed good and sufficient, and the person so failing or neglecting shall moreover forfeit $100 with costs, for the use of the United States, unless in case of sickness or absence from home.

The owners, &c. of estates not within the district in which they reside, may deliver a list of such property to the assessor of the assessment district in which they do reside, provided they specify distinctly the assessment district in which the estate lies, and pay to the assistant assessor one dollar. The assistant assessors are then bound to transmit such lists to the principal assessor of their collection district, whose duty it is to transmit them to the principal assessor of the districts wherein such estates may lie, in default of which the assistant assessor of the district wherein the estate lies must himself make out the list, and for that purpose, if necessary, enter into and open such estate.

The assistant assessors, after collecting the lists of taxable property, which shall be taken with reference to the day fixed for that purpose by the act laying the tax, shall proceed to arrange the same, and to make two general lists; the first shall exhibit, in alphabetical order, the names of all persons liable to pay the tax, residing within the assessment district, together with the value and assessment of the objects liable to taxation within such district, for which each person is liable to pay a direct tax, and whenever so required by the principal assessor, the amount of direct tax payable by each person on such objects under the state laws imposing direct taxes; the second list shall exhibit, in alphabetical order, the names of all persons residing

out of the collection district, owners of property within the district, together with the value and assessment thereof, or amount of direct tax due thereon. The forms of these general lists shall be devised and prescribed by the principal assessor, and lists taken according to such form shall be made out by the assistant assessor, and delivered to the principal assessor within sixty days after the day for requiring lists from individuals.

Immediately after the valuations and enumerations shall have been completed, the principal assessor in each collection district shall, by advertisement in some public newspaper, if there be any in the district, and by notifications pasted up in at least four of the most public places in each assessment district, give notice of the place where the lists may be seen and examined for 25 days after the publication of the notice, and that during that time appeals will be received and determined by him relative to any erroneous or excessive valuations or enumerations by the assistant assessor. These appeals must be made in writing, and must specify the particulars respecting which a decision is requested; they must likewise state the ground or principle of inequality or error complained of, the only question to be determined by the principal assessor, on an appeal, being, whether the valuation complained of be in a just proportion to other valuations in the same assessment district. The principal assessor is accordingly empowered to re-examine and equalize the valuations as shall appear just and equitable; but no valuation shall be increased without a previous notice of at least five days to the party interested to appear and object to the same, if he judge proper; which notice shall be given by a note in writing, to be left at the dwelling-house of the party, by such assessor as the principal assessor shall designate for that purpose.

When the quotas of direct tax payable by the states shall be apportioned by law on the collection districts, and those districts contain more than one assessment district, the principal assessors are empowered to equalize the valuations between the assessment districts, by deducting from or adding to either such a rate per cent. as shall appear just and equitable.

After hearing appeals, and adjusting and equalizing the valuations as above, the principal assessors shall respectively make out lists containing the sums payable upon every object of taxation within their respective districts, so as to raise upon the collection district for which they are appointed its quota of direct tax; which lists shall contain the name of each person residing within the collection district liable to pay the direct tax, or of the person residing within the district and having the care or superintendance of property lying within the district, which is

liable to the payment of the tax, where such person or persons are known, together with the sum payable by each person on account of the said direct tax as aforesaid. And where there is any property within any collection district, liable to the payment of the direct tax, not owned or occupied by, or under the superintendance of any person resident therein, there shall be a separate list of such property, specifying the sums payable, and the names of the respective proprietors, where known. One of each of those lists shall be furnished to the district collector within 60 days from the time when the different lists shall have been received from the assistant assessors. The collector, on receiving the lists, shall give the principal assessor three receipts, one on a correct copy of the lists, the other two on aggregate statements of the gross amount of the taxes to be collected in his district. The receipt which is written on the copy of the lists shall remain with the principal assessor, and shall be open to public inspection; the other two shall be transmitted, the one to the secretary, the other to the comptroller of the treasury. Each of the collectors, or his deputies, shall, within ten days after receiving his collection list, advertise in one newspaper printed in his collection district, if any there be, and by notifications to be posted up in at least four public places in his collection district, that the tax has become due, and state the times and places at which he will attend to receive the same, which shall be within twenty days after such notification; and with respect to persons who shall not attend, according to such notifications, it shall be the duty of the collector to proceed as follows.

1. *With respect to property owned by persons residing in the same collection district.* Within 60 days after the receipt of the collection lists, it shall be the duty of each collector, in person or by deputy, to apply once at their respective dwellings within such district, and there demand the taxes; and if they shall not be then paid, or within twenty days thereafter, it shall be lawful for such collector and his deputies to proceed to collect them by distress and sale of the goods, chattels, or effects of the persons delinquent, with a commission of eight per cent. for the use of such collector. But it shall not be lawful to make distress of the tools or implements of a trade or profession, beasts of the plough, necessary for the cultivation of improved lands, arms or household furniture, or apparel necessary for a family. When effects sufficient to satisfy the tax cannot be found, the collector, having first advertised the same for 30 days in a newspaper printed within the collection district, if such there be, and having posted up in at least ten public places within the same a notification of the intended sale, thirty days previous thereto,

shall proceed to sell at public sale, so much of the property as may be necessary to satisfy the taxes due, with an addition of twenty per cent. for defraying charges; and if the property cannot be sold for the amount of the tax due with the said additional per centum, the collector shall purchase it in behalf of the United States for such amount. The proprietors shall be allowed to redeem their property, however, before the sale, by payment of the tax with an addition of ten per cent., and within two years after the sale, by payment to the collector, for the use of the purchaser, the amount paid by such purchaser, with interest at the rate of twenty per cent. per annum; deeds consequently cannot be given in pursuance of such sales, until after the expiration of two years.

2. *With respect to property owned by persons residing in a different collection district.* A collector is to be designated in each state by the secretary of the treasury, to whom lists are to be transmitted by all the other collectors within the state, of all the property coming uuder this description, for which the taxes have not been paid within ninety days after the receipt of the collection lists from the different assessors. The state collector shall then publish for sixty days, in at least one newspaper within the state, a notification of all the lists and taxes thus transmitted to him, and, after the expiration of a year from the day on which the district collector first notified the taxes to have become due, shall proceed to sell so much of the property as may be necessary to satisfy the taxes, with an addition of 20 per cent. for defraying charges. After the sale, the state collector is to deposit with the clerks of the respective district courts within whose district the property lies, correct lists of the property sold, together with the names of the owners or presumed owners, of the purchasers at the public sales, and of the amount paid by them. The property may be redeemed in the same manner as the first-mentioned species, by application to the collector if before the sale, and to the clerk of the district court if within two years after the sale, at the expiration of which period, deeds shall be given to the purchasers by the clerks, on the payment of $2 for each.

In all cases where lands may be sold for the payment of direct taxes belonging to infants, persons of insane minds, married women, or persons beyond sea, such persons shall have the term of two years after their respective disabilities shall have been removed, or their return to the United States, to redeem lands thus sold, on their paying into the clerk's office the amount paid by the purchaser, together with ten per cent. per annum thereon; and on their paying to the purchaser of the land a

compensation for all improvements he may have made on the premises subsequent to his purchase, the value of which improvements to be ascertained by three or more neighboring freeholders to be appointed by the clerk, who on actual view of the premises shall assess the value of such improvements on their oaths, and make a return of such valuation to the clerk immediately.

The direct taxes are a lien on all estates on which they are assessed for two years after becoming due.

Collectors are bound to give receipts when required for all sums collected by them, and in case of their being guilty of extortion or oppression, in the execution of their duties, or of demanding more than is authorized by law, a sum not exceeding $300 may be recovered from them by the party injured, in any court having competent jurisdiction.

The following sums are to be allowed to the assessors for their services: to each principal assessor, two dollars for every day employed in hearing appeals and making out lists, and four dollars for every hundred taxable persons contained in the tax list as delivered by him to the collector: to each assistant assessor one dollar and fifty cents for every day actually employed in collecting lists and making calculations, the number of days necessary for that purpose being certified by the principal assessor, and approved by the comptroller of the treasury, and three dollars for every hundred taxable persons contained in the tax list as completed and delivered by him to the principal assessor: the assessors are likewise to be allowed reasonable charges for books and stationary used in the execution of their duties.

In cases where no person can be found in any collection district or assessment district, to serve either as collector, principal assessor, or assistant assessor, the president is authorized to appoint one of the deputy post-masters in such districts to serve as collectors or assessors, as the case may be: and it shall be the duty of such deputy postmaster to perform accordingly the duties of such officer.

§ 21. The internal duties are to continue in force until a year after the conclusion of a peace with Great Britain, and during their continuance the secretary of the treasury is directed to lay before congress annually in the month of December, separate accounts of all monies received on account of them, and on account of the direct tax (whenever laid), showing upon what articles or subjects of taxation those duties accrued; also, the amount of monies paid to collectors, assessors, assistant assessors, or other officers employed in the collection; distinguishing the amount of monies received from each state, and from

what tax or species of duties received; and distinguishing also the amount of monies paid to the officers in each state.

§ 22. In the passage of these revenue laws, there was but little debate on either side of the house. The principal opposition was directed against the bill laying the direct taxes, and it was contended that it would be better to raise the revenue expected from this source, by an increase of the duty on distilled liquors.

Direct taxes, it was urged, are paid by constraint, indirect by choice. Should the crops of the farmer be cut short, his cattle die, or should he be unfortunate any other way, he can relieve himself from the burthen of indirect taxes, by reducing in his family the consumption of the article taxed. With direct taxes there is no such alternative. It is said that the owner of land can always pay the demands of government: but land taxes sometimes fall upon the poor tenant, and the owner himself is not always able to pay, his land being often mortgaged to the last cent. A vast number of new settlers, who have purchased land on credit, and who have undergone every privation, and have with the utmost difficulty paid the state taxes, and the interest and perhaps instalment of their purchase, would be utterly ruined by the burthen of a new land tax.

The great importance, in a government like ours, of preserving the affections of its citizens was likewise urged. But by a direct tax much discontent would be created; for while men will suffer much while left to choice, they will endure but little without murmuring, when constrained by the hand of power.

The wisest object of government is to tax the luxuries, and not the necessaries of life, and it is of importance that the laws should curb vice and cherish morality. Both these objects are effected by the tax on spirituous liquors.

It is but justice, it was added, that the burthens as well as the benefits of the union should be equally borne. Those who live on the seaboard pay a heavy tax on their imported liquors, and it is but reasonable that those in the more remote parts of the union should be taxed in their domestic spirits.

On the other hand it was urged, that there was a certain length to which taxation might be carried, and no farther. By an increase of the duty, the amount of the revenue was actually lessened.

That if every one insisted on the system of taxation which he thought best, there never could be any system adopted, and therefore it was necessary for every one to give way a little.

The natural and inherent difficulties of finance, it was stated, are aggravated in America by the diversity of the states, their sovereignty, and dissimilar resources for revenue, and conse-

quently the almost impossibility of establishing a system which will press equally on all. A countervailing arrangement of taxes was therefore contemplated by the constitution. There is no objection to a whiskey tax, but there is a serious objection to raising all the revenue from whiskey, a beverage of the poor and of the agricultural states and districts; more especially when it is avowed that this unfair burthen is to be substituted for a land tax, which will fall equally on all real property, and every section of the country.

Taxation, it was urged, is the last experiment of republicanism. If we can tax, it endures; if not, it is high time to be done with it. Without the power of waging war, government is useless; and war cannot be waged without finances. If the country will not be taxed, it is high time we should know it.

On the passage of the bill for the assessment and collection of the direct tax, an amendment was offered, providing that a supervisor should be appointed in each state for the apportionment of the quotas among the counties. In support of this amendment, it was stated, that the apportionment of the quota of taxes among the counties was in many, if not all of the states, unequal, and consequently unjust; and that, with regard to the power left with the state governments of altering the apportionments, it was very uncertain whether the legislatures would interfere; and besides, the correctness of doing injustice, and trusting to others to correct it, was very much doubted.

This amendment was negatived, and the bill passed in its original form.

Mr. Clopton objected to the duty on carriages, on the ground of its being a direct tax, which congress had no power to impose, except in the mode pointed out by the constitution. Carriages he considered to be a very proper subject of taxation; but this consideration could never induce him to mould the constitution into a form to suit the tax, or to endeavour to reconcile them by a forced construction. He was aware that the supreme court had sanctioned, by a solemn decision, the constitutionality of this species of tax. He entertained the utmost respect for the characters, talents, and stations of the public functionaries, and this respect would always induce him to examine with the utmost minuteness every subject on which he had to act, in which his conviction was contrary to their decision. But he should consider that he violated his duty, both to his country and his conscience, if he acted as a legislator upon the opinions of any man, however luminous his understanding or exalted his station, until he became convinced of their propriety. After a minute examination it appeared to him clear and unquestionable, that the

duty on carriages was a direct tax according to the meaning of the constitution. The difference between direct and indirect taxation he understood to be, that the direct tax was laid directly on property, the owner or possessor of which is immediately chargeable with the tax, and by which no other person whatever is affected; whereas the indirect tax affected principally the consumer, and not the possessor of the article at the time the tax accrued, the former *indirectly* paying the tax in the enhanced price. If this distinction were correct, the duty on carriages was certainly a direct tax. It had been stated that the committee of ways and means considered carriages as articles of *expence*, and as such liable to this species of taxation. But were not slaves (one of the objects of the direct tax), in many instances, articles of expence also? Was the carriage an article of expence, and not the servant who drives the carriage?

This objection was overruled on the ground of the tax having been formerly in operation, and solemnly sanctioned by the supreme court; that it was one of the best taxes that could be imposed, as it fell almost exclusively on the wealthy, and was really a tax on luxury.

§ 23. The following is a statement of the votes on the tax-bills on their final passage in the house of representatives:

On the bill directing the manner of assessing and collecting the direct taxes	yeas 95	nays 63
On the bill laying a direct tax	97	70
Duty on stills	85	49
On refined sugars	94	53
Licenses to retailers	84	46
Sales at auction	102	51
Carriages	99	52
Stamps	81	46

§ 24. In addition to the internal taxes, a law was passed laying a duty of twenty cents per bushel or fifty-six pounds, on the importation of salt, to commence on January 1, 1814. The term of credit on this duty was fixed at nine months.

No drawback is to be allowed, but instead thereof a bounty of twenty cents per barrel on the exportation of pickled fish of the fisheries of the United States, which have been cured with foreign salt on which the duty has been paid. The bounty, however, is not to be allowed, unless it shall amount to ten dollars at least upon each entry.

This act also grants a bounty on the employment of certain fishing vessels, the particulars of which will be given when we come to treat of the law for the regulation of the seamen employed in those fisheries, in the next chapter.

CHAPTER V.

§ 1. Webster's resolutions. § 2 Debate thereon. § 3. Answer of the president. § 4. Stenographers. § 5. Russian embassy. § 6. Mission to Sweden. § 7 Embargo. § 8. Massachusetts remonstrance. § 9. Debate thereon. § 10. Distribution of arms. § 11. Amendments to the constitution. § 12. Naturalization. § 13. British licenses. § 14. Girard's memorial. § 15. Seizure of East Florida. § 16. Measures for defence. § 17. Disabled militia and volunteers. § 18. Reward of valour. § 19. Encouragement to privateers. § 20. Encouragement of the fisheries. § 21. Loan. § 22. Appropriations. § 23. Conduct of the war. § 24. Barbarities of the enemy. § 25. Adjournment.

§ 1. PREVIOUS to the tax bills being taken up in the house of representatives, the house was principally occupied with contested elections, the accommodation of stenographers, and a motion of Mr. Webster, relative to the repeal of the Berlin and Milan decrees.

On the 10th of June, the following resolutions were submitted to the house by Mr. Webster, which were read and laid on the table.

Resolved, That the president of the United States be requested to inform this house, unless the public interest should, in his opinion, forbid such communication, when, by whom, and in what manner, the first intelligence was given to this government of the decree of the government of France, bearing date the 28th April, 1811, and purporting to be a definitive repeal of the decrees of Berlin and Milan.

Resolved, That the president of the United States be requested to inform this house whether Mr. Russell, late charge d'affaires of the United States at the court of France, hath ever admitted, or denied, to his government, the correctness of the declaration of the duke of Bassano to Mr. Barlow, the late minister of the United States at that court, as stated in Mr. Barlow's letter of the 12th of May, 1812, to the secretary of state, "that the said decree of April 28, 1811, had been communicated to his (Mr. Barlow's) predecessor there;" and to lay before this house any correspondence with Mr. Russell, relative to that subject, which it may not be improper to communicate; and also any correspondence between Mr. Barlow and Mr. Russell on that subject, which may be in possession of the department of state.

Resolved, That the president of the United States be re-

quested to inform this house whether the minister of France, near the United States, ever informed this government of the existence of the said decree of the 28th of April, 1813, and to lay before the house any correspondence that may have taken place with the said minister relative thereto, which the president may not think improper to be communicated.

Resolved, That the president of the United States be requested to communicate to this house any other information which may be in his possession, and which he may not deem it injurious to the public interest to disclose, relative to the said decree of the 28th of April, 1811, and tending to show at what time, by whom, and in what manner, the said decree was first made known to this government, or to any of its representatives or agents.

Resolved, That the president be requested, in case the fact be that the first information of the existence of said decree of the 28th of April, 1811, ever received by this government or any of its ministers or agents, was that communicated in May, 1812, by the duke of Bassano to Mr. Barlow, and by him to his government, as mentioned in his letter to the secretary of state of May 12, 1812, and the accompanying papers, to inform this house whether the government of the United States hath ever required from that of France, any explanation of the reasons of that decree being concealed from this government and its ministers for so long a time after its date; and if such explanation has been asked by this government, and has been omitted to be given by that of France, whether this government has made any remonstrance, or expressed any dissatisfaction to the government of France, at such concealment.

§ 2. On the 16th, at the instance of Mr. Webster, the house proceeded to the consideration of his resolutions.

In the debate that arose out of this subject, a very extensive range was taken on both sides of the house. The opponents of the resolutions objected principally to the novelty of their form, which they contended was disrespectful and unprecedented in such cases. An amendment was proposed, calling for information generally on the subject.

This amendment, however, was withdrawn on its being stated, that a similar call had been made at the end of last session, the answer to which consisted merely of extracts of letters from Mr. Barlow, without any explanation or declaration on the part of the executive, in one of which it was expressly said, that the duke of Bassano stated that the repealing decree had been communicated to our government through two channels, at as early a date as May, 1811.

If this decree, it was contended, had been made known to the British government at the time it was issued, the orders in council would have been repealed, and we should have avoided the ruinous war under which we are now suffering. The declaration of the duke of Bassano, then, affixes a serious charge on the American government, which well merited an examination of the grounds whereon it rested. Either our government was guilty of concealing the decree, or the French government was guilty of the concealment, with the full addition of duplicity and falsehood. It was to arrive at truth in relation to this dark and mysterious transaction, that these resolutions were offered.

For the purpose of showing that the concealment of this decree had brought on the war with England, a view was taken of the course pursued by the American government in relation to the belligerents after the abandonment of the embargo. The report of the committee of foreign relations of November, 1808, and the non-intercourse law of 1809, were cited to show the intentions of government, and their opinion that, while the decrees of both belligerents were in force, neither nation could, with honour and justice, be selected for hostility.

The non-intercourse law contained a provision, that if France or England should so far repeal or modify her edicts, as that they should cease to violate our neutral rights, the fact should be proclaimed by the president, and the act was to cease as to that nation. This provision, it was contended, had been taken advantage of by Bonaparte, for the purpose of shamefully duping the president. By the law, the president was bound not to issue his proclamation until France should have in good faith repealed or modified her decrees. But he waited for no such repeal or modification. In the language of Mr. Russell, then our minister in France, the president was "shuffled into the *lead*, where national honour and the law required him to *follow*." To prove the correctness of the assertion of Mr. Russell, an order of the French government to the council of prizes, and the French repealing decree of April, 1811, were read as follows:

"In *consequence* of this engagement entered into by the government of the United States to cause their rights to be respected, his majesty orders that all causes that may be pending in the council of prizes, of captures of American vessels, made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured and seized to remain only in a state

of sequestration, until the 2d of February next, the period at which the United States having *fulfilled* the *engagement* to cause their rights to be respected, the said captures shall be declared null by the council, and the American vessels restored, together with their cargoes, to their proprietors."

TRANSLATION.

Palace of St. Cloud, 28th April, 1811.

Napoleon, emperor of the French, &c. On the report of our minister of foreign relations:

Seeing, by a law passed on the 2d of March, 1811, the congress of the United States has ordered the execution of the provisions of the act of non-intercourse, which prohibits the vessels and merchandize of Great Britain, her colonies and dependencies, from entering into the ports of the United States:

Considering that the said law is an act of resistance to the arbitrary pretensions consecrated by the British orders in council, and a formal refusal to adhere to a system invading the independence of neutral powers and of their flag; we have ordered and decreed as follows:

The decrees of Berlin and Milan are definitively, and to date from the 1st November last, considered as not existing in regard to American vessels.

(Signed) NAPOLEON.

By the emperor, the minister secretary of state.

(Signed) THE COUNT DARA.

The conclusion drawn from these acts of the French government was, that if the decree had been made known to congress in the spring of 1811, the war would have been prevented, as it would have clearly shown that the president had issued his proclamation on false grounds, being required by law to be consequent and not precedent of the French repeal, and that thereby congress would have been forced to retrace its steps, and, agreeably to the intent of the law, again place the belligerents on an equal footing.

But, even supposing that had not been the case, it was urged, is there not every reason to believe, that if the French repealing decree had been made known to England, she would have modified her orders in council, and continued peace would have been the consequence, as it was preposterous to pretend that war would have been declared had the orders been revoked? Impressment, though always a subject of difference between the two nations, had never been by our government for a moment considered as sufficient cause of war.

In support of the opinion that if the French decree had been known in England, the orders would have been repealed, quotations were made from the correspondence with Mr. Foster; and though it was admitted that some paragraphs of the letters, abstracted from the residue, appeared to assert the contrary, even these, it was averred, are allowed by Mr. Monroe himself to be equivocal, and when viewed as a whole, that appearance would vanish. In the last letter which he wrote to Mr. Monroe, only four days before the final passage of the act declaring war, he avers that his preceding letters had been misunderstood and misconstrued, and *finally declares*—"I will now say, that I feel entirely authorized to assure you, that if you can at any time produce a full and unconditional repeal of the French decrees, *as you have a right to demand it in your character of a neutral nation*, and that it be disengaged from any connection with the question concerning our maritime rights, we shall be ready to meet you with a revocation of the orders in council."

The order of revocation of the 23d of June, 1812, was likewise quoted in support of this opinion.

"And whereas the charge des affaires of the United States of America, resident at this court, did, on the 20th day of May last, transmit to lord viscount Castlereagh, one of his majesty's principal secretaries of state, a copy of a certain instrument, then for the first time communicated to this court, purporting to be a decree passed by the government of France on the 28th day of April, by which the decrees of Berlin and Milan are declared to be definitively no longer in force in regard to American vesels." The order then states, that although the "tenor of said instrument" does not satisfy the conditions of his former declaration, yet, wishing to re-establish the intercourse between neutral and belligerent nations, he "*therefore* is pleased" to revoke his orders so far as they relate to American vessels and property. The prince regent does here expressly aver, that his revocation is founded on the French repealing decree.

The enquiries in the house of commons, it was averred, had no decisive effect in producing the revocation, for the pressure had been long felt by the people, and long known to the government; the loud clamours of the people had long been heard without the slightest effect. The delay of thirty-three days by the British in issuing their decree of revocation, was easily accounted for by the ministerial interregnum, which ensued on the murder of Perceval.

If the war would have been averted by the publication of the repealing decree at the time of its date, is it not, it was asked, of the utmost importance for congress to know who was charge-

able with the guilt of suppressing it? And was it not the duty of every member of the house, and above all the friends of the administration, to afford the executive an opportunity to hurl back on the French government the imputation which it had thus cast on its character?

Mr. Grosvenor, one of the principal advocates of the resolutions in the original form, thus concluded his speech. "There are thousands and hundreds of thousands of this people, who do believe that your councils are contaminated by the influence and guided by the hand of France. For a series of years they have beheld, or they think they have beheld, the hand of the despot in our affairs. They have seen, or they think they have seen, their government the unresisting dupe of French intrigue, the tame object of French insult and injury. If it so please you, call these men tories—call them the friends of England—call them the victims of delusion—call them what you will, still, until you "can rail their judgments from their minds," or until your councils change, such will continue their honest belief.—By rejecting these resolutions you fix their opinions for ever. If they are deluded, you establish their delusion beyond the possibility of removal. On the other hand, if you pass these resolutions, and if, in consequence thereof, the president shall dissolve the darkness, shall step forth to the public pure and unspotted; if he shall evince that he has felt and acted as it became the chief of a high minded and free people; if he has repelled and resented the base imputation, happy, beyond measure happy will be the consequences of this proceeding. On my conscience, I believe it will go farther to destroy all suspicion of French influence, it will go farther to restore confidence to the executive, than any other mean that could have been selected."

The speakers on the other side of the house contended that these arguments were totally irrelevant. France and Great Britain, it was stated, after having carried on the present war for several years with all the rancour the human mind is susceptible of—each struggling for the destruction of the other—found their efforts unavailing by the ordinary course of warfare. France, inflated with, and wielding a power on the continent rarely witnessed, had been unable to conquer Great Britain by the direct operations of war: Great Britain, powerful on the ocean beyond all example, had been unable to bring France to terms by the ordinary course of war upon her ships, colonies, and commerce. In this state of things, they seem to have determined respectively that every thing should yield to their views of mutual destruction and self aggrandizement; that

those principles of natural reason, which ought to govern all nations, and which, under the name of national law, had been acknowledged by all civilized nations, should be longer regarded: they commenced a system of depredation, of plundering of the commerce of all peaceful nations, each alleging that the course taken was founded in just retaliation. Under this state of things, what was the American government bound to do? At most, barely to demand reparation from both; and, upon refusal, she might rightly declare war against one or both, according to her view of political expediency. We were under no moral obligation to procure a repeal of the Berlin or Milan decrees, as a condition precedent to our having a just cause of war against Britain for captures under her orders in council; neither were we bound to procure a repeal of the orders in council, as a condition precedent to a just war against France for captures under the Berlin and Milan decrees. Each had violated our perfect rights, and we had a right to select our enemy. As well might it be contended, that a man is bound to adjust the priority of injury between two highway-men who have at distinct times robbed him, before he shall proceed to enforce the law and recover his property, as to insist that we could have no just cause of war against France or Great Britain, without procuring a repeal of the orders in council or Berlin and Milan decrees.

Besides, it was contended, every man acquainted with the political state of the two countries must be satisfied, that it was the suffering condition of the British manufacturers, united with the apprehension of an American war, and not the repeal of the French decrees as to America, which produced the conditional repeal of the British orders in council. The declaration of the prince regent of the 21st of April, 1812, was quoted to show, that, in order to produce a revocation of the orders as to America, it was necessary, not that the French decrees should be modified so as to except American commerce from their operation, but that these decrees should be "*unconditionally repealed*, and the commerce of neutral nations be restored to its accustomed course." The language of the French repealing decree is,

"The decrees of Berlin and Milan are definitively, and to date from the 1st of November last, considered as not existing in regard to American vessels."

And the prince regent, in the decree repealing the orders in council, declares,

That he "cannot consider the tenor of the said instrument as satisfying the conditions set forth in the said order of the 21st of April, 1812."

Why, it was urged, was not this a compliance with the declaration of April, 1812? As to the United States it was full and complete. It was because it was not a *repeal*, and because it did not relate to *all* neutral powers.

The correspondence of Mr. Foster was likewise quoted in support of this opinion. In a letter to the secretary of state, dated June 10, 1812, he says, "I have no hesitation in saying, that Great Britain, as the case has hitherto stood, never did nor ever could engage, without the grossest injustice to herself and her allies, as well as to other neutral nations, to repeal her orders as affecting America alone, leaving them in force against other states, upon condition that France would except singly and specially America from the operation of her decrees."

This declaration, it was urged, had removed every doubt that could exist in relation to the intention of the British government. But the executive of the United States, solicitous to avoid the evils of war, on the 13th of June, 1812, again addressed the British minister in the following terms:

"It is satisfactory to find that there has been no misapprehension of the condition without which your government refuses to repeal the orders in council. You admit that to obtain their repeal in respect to the United States, the repeal of the French decrees must be absolute and unconditional, not as to the United States only, but as to all other neutral nations; not as far as they affect neutral commerce only, but as they operate internally and affect the trade in British manufactures with the enemy of Great Britain. As the orders in council have formed a principal cause of the differences which unhappily exist between our countries, a condition of their repeal communicated in any authentic document or manner was entitled to particular attention. And surely none could have so high a claim to it as the letter from lord Castlereagh to you, submitted by his authority to my view, for the express purpose of making that condition, with its other contents, known to this government."

To the letter last mentioned Mr. Foster gave an answer which closes the correspondence between the two countries. The language is too plain to admit but of one construction.

"I will now say, that I feel entirely authorised to assure you, that if you can at any time produce a full and unconditional repeal of the French decrees, as you have a right to demand it in your character of a neutral nation, and that it be disengaged from any question concerning our maritime rights, we shall be ready to meet you with a revocation of the orders in council. Previously to your producing such an instrument, which I am

sorry to see you appear to regard as unnecessary, you cannot expect of us to give up our orders in council."

From these authentic documents, it was urged, no man could doubt that, even if the French decree had been produced at the period of its date, it would have failed in bringing about the revocation of the orders in council.

With regard to the question of impressment, it was urged, that, if the public documents were referred to, it would be found, that it was considered as a principal cause of the war; and that no man could with confidence pronounce what would have been the course pursued had the orders in council been revoked before war was declared. Now that the war was commenced, it was asked, shall the question of impressment be given up? If gentlemen will not fight for the personal rights of American citizens, will they surrender them?

These arguments, however, it was stated, were not urged against the passage of the resolutions, but merely to rebut the assertion, that the country had been involved in war by the concealment of the decree.

The debate on this subject continued until the 21st, when Mr. Bibb having stated it to be the intention of the committee of ways and means to call up the tax bills the following day, motions for amendment and indefinite postponement, then before the house, were withdrawn by their respective movers, and the resolutions passed as follows: for the passage of the first resolution, yeas 137, nays 26; for the second, yeas 137, nays 29; for the third, yeas 134, nays 30; for the fourth, yeas 125, nays 34; and for the 5th, yeas 93, nays 68. The following resolution was likewise passed, on motion of Mr. Rhea, and a committee appointed to present the resolutions to the president.

Resolved, That the president of the United States be requested to transmit to this house copies of a declaration and order in council of the British government of the 21st of April, 1812, and a copy of a note from lord Castlereagh to Mr. Russell, being the same alluded to in the letter of Mr. Russell to the secretary of state, of the 26th April, 1812.

§ 3. In answer to this call of the house, the president transmitted a report of the secretary of state, accompanied with a correspondence between Mr. Barlow and the French government, between Mr. Barlow and Mr. Russell, a correspondence between Mr. Russell and the department of state, and letters from Mr. Monroe to Mr. Barlow after the declaration of war, all of them relating to this subject.

The secretary, in his report, states, that the first intelligence which this government received of the French decree of the 28th

April, 1811, was communicated by Mr. Barlow, in a letter bearing date on the 12th May, 1812, which was received on the 13th July following: that the first intimation to Mr. Barlow of the existence of that decree, as appears by his communications, was given by the duke of Bassano, in an informal conference on some day between the 1st and 10th of May, 1812, and that the official communication of it to Mr. Barlow was made on the 10th of that month, at his request; that Mr. Barlow transmitted a copy of that decree, and of the duke of Bassano's letter announcing it, to Mr. Russell, in a letter of May 11th, in which he also informed Mr. Russell, that the duke of Bassano had stated that the decree had been duly communicated to him; that Mr. Russell replied in a letter to Mr. Barlow of the 29th May, that his first knowledge of this decree was derived from his letter, and that he has repeatedly stated the same since to this government.

The secretary also stated, that no communication of the decree of the 28th April, 1811, was ever made to this government by the minister of France, or other person, than as is above stated; and that no explanation of the cause of its not having been communicated to this government and published at the time of its date, was ever made to this government, or, so far as it is informed, to the representatives or agents of the United States in Europe. The minister of France has been asked to explain the cause of a proceeding apparently so extraordinary and exceptionable, who replied that his first intelligence of that decree was received by the Wasp, in a letter from the duke of Bassano of May 10th, 1812, in which he expressed his surprise excited by Mr. Barlow's communication, that a prior letter of May, 1811, in which he had transmitted a copy of the decree for the information of this government, had not been received.

The secretary then enters into an examination of the state of our foreign relations, for which we must refer our readers to the report itself, which will be found among the documents of this session. The report concludes as follows:

"It was anticipated by some, that a declaration of war against Great Britain would force the United States into a close connection with her adversary, much to their disadvantage. The secretary of state thinks it proper to remark, that nothing is more remote from the fact. The discrimination in favour of France, according to law, in consequence of her acceptance of the proposition made equally to both powers, produced a difference between them in that special case, but in that only.

"The war with England was declared without any concert or communication with the French government; it has produ-

ced no connection between the United States and France, or any understanding as to its prosecution, continuance, or termination. The ostensible relation between the two countries, is the true and only one. The United States have just claims on France, for spoliations on their commerce on the high seas, and in the ports of France; and their late minister was, and their present minister is, instructed to demand reparation for these injuries, and to press it with the energy due to the justice of their claims and to the character of the United States."

§ 4. The case of the stenographers was as follows. On the 31st of May the petition of George Richards was presented to the house, stating, that during the last session he reported their proceedings, and that on application at the present session for the like privilege, he had been excluded by the decision of the speaker. The prayer of the petitioner was to be admitted as heretofore, for the purpose of reporting their debates.

The rules of the house provide that stenographers shall be admitted, and that the speaker shall assign them such places on the floor as shall not interfere with the convenience of the house. In the modification of the representatives' chamber for the reception of the great increase of members in the 13th congress, it appears, the places hitherto assigned to reporters were considerably curtailed. Six reporters applied for places, and only four could be admitted. The consequence was that two were excluded, one of whom was the petitioner.

The petition being presented near the commencement of the session, before any of the committees had made their reports, and no matter of importance of course being before congress, this subject gave rise to a great deal of debate, and to a variety of motions. The business was at last settled by the adoption of the following resolution:

Resolved, That a sum not exceeding two hundred dollars be, and is hereby appropriated out of the contingent fund of this house, for the purpose of making provision for the accommodation of stenographers in the galleries of the house, and that whenever such provision shall have been made, no stenographers shall be admitted on the floor of the house.

The executive business transacted in the senate, relative to the approbation of the appointment of the envoys to Russia, and the minister to Sweden, excited an uncommon degree of interest throughout the country.

§ 5. On Monday, May 31, a message was received from the president of the United States by the senate, of which the following is an extract:

To the Senate of the United States.

Commissions having been granted during the recess of the senate to the following persons, I now nominate them to the same offices respectively annexed to their names: Albert Gallatin, John Quincy Adams, and James A. Bayard, to be jointly and severally envoys extraordinary and ministers plenipotentiary, to negociate and sign a treaty of peace with Great Britain, under the mediation of the emperor of Russia; to negociate and sign a treaty of commerce with Great Britain; and the said Albert Gallatin, John Quincy Adams, and James A. Bayard, to be jointly and severally envoys extraordinary and ministers plenipotentiary, to negociate and sign a treaty of commerce with Russia.

JAMES MADISON.

Washington, May 29th, 1813.

On Wednesday Mr. King submitted the following motions for consideration, the two first of which were negatived. The last was agreed to, and the secretary was ordered to lay it before the president.

Resolved, That the president of the United States be requested to cause to be laid before the senate, copies of the communications from the emperor of Russia, offering his mediation to bring about a peace between the United States and Great Britain, together with copies of the answers to such communications, and noticing the dates at which the same were respectively received and answered.

Resolved, That the president of the United States be requested to cause to be laid before the senate copies of the commissions granted to Albert Gallatin, John Quincy Adams, and James A. Bayard, to negociate treaties of peace and commerce with Great Britain, and a treaty of commerce with Russia.

Resolved, That the president of the United States be requested to inform the senate whether Albert Gallatin, commissioned as one of the envoys to treat of peace and commerce with Great Britain, and of commerce with Russia, retains the office of secretary of the department of the treasury; and, in case of his so retaining the same, to inform the senate under what authority and by whom the powers and duties of the head of the treasury department are discharged, during the absence of Albert Gallatin from the United States.

The following message was received in answer.

To the Senate of the United States.

In compliance with their resolution of the 3d instant, the senate are informed, that the office of secretary of the treasury

is not vacated, and that in the absence of Albert Gallatin, commissioned as one of the envoys to treat with Great Britain and Russia, the duties of that office are discharged by William Jones, secretary of the navy, authorized therefore according to the provisions of the act of congress entitled "an act making alterations in the treasury and war departments," passed May 8th, 1792.

JAMES MADISON.

Washington, July 3, 1813.

A committee was then appointed, consisting of Messrs. Anderson, King, Giles, Brown, and Bledsoe, to whom the nomination of Albert Gallatin, together with the above message, was referred, to inquire and report thereon.

On the 11th of June, Mr. Anderson, the chairman of the committee, addressed the following letter to the president:

Sir, *Capitol Hill, 11th June*, 1813.

I take leave to enclose you a copy of a resolution of the senate. The committee appointed by that resolution have directed me to inform you, that they will wait on you at such time as you may please to appoint, in order to commune with you upon the matter referred to them.

Accept assurances of my high respect.

JOSEPH ANDERSON.

Mr. Anderson afterwards called on the president, who informed him that he did not consider the authority given to the committee by the resolution, such as to authorize them to call on him in their official character, but that if they were especially instructed to call on him, and the specific object designated, he would freely receive them, and appoint a time for that purpose. The committee accordingly reported to this effect, and submitted to the senate the following resolutions, which were read and agreed to, yeas 20, nays 14.

Resolved, That, in the opinion of the senate, the powers and duties of the secretary of the department of the treasury, and those of an envoy extraordinary to a foreign power, are so incompatible, that they ought not to be, and remain, united in the same person.

Resolved, That the committee to whom was referred the nomination of Albert Gallatin (secretary of the department of the treasury), as an envoy extraordinary to treat of peace and commerce with Great Britain, and of commerce with Russia, be instructed to communicate the foregoing resolution to the

president of the United States, and respectfully to confer with him upon the matter thereof.

On the 19th Mr. Anderson made this further report, viz.

The committee to whom was referred the nomination of Albert Gallatin, to be one of the envoys extraordinary and ministers plenipotentiary to negociate and sign a treaty of peace with Great Britain, under the mediation of the emperor of Russia, to negociate and sign a treaty of commerce with Great Britain, and to negotiate and sign a treaty of commerce with Russia, together with the message of the president of the United States, of the 7th June, report:

That, according to the instructions of the senate of the 16th June, the committee, through its chairman, addressed a note to the president of the United States, on the 12th instant, a copy of which accompanies this report, and, in reply thereto, the president addressed a note to the chairman on the 14th inst. which note also accompanies this report, appointing Friday the 16th inst. to receive the committee, to communicate the aforesaid resolution of the senate, and apprising the committee of his late message to the senate, containing the grounds on which he would be obliged to decline the proposed conference with the committee; upon due consideration of this reply, the commitee deemed it an incumbent duty to wait on the president according to his appointment, and to present to him both the resolutions of the senate, in relation to the nomination referred to the committee, and did accordingly wait on him and present them. When the president was pleased to observe to the committee in substance, that he was sorry the senate had not taken the same view of the subject which he had done, and that he regretted that the measure had been taken under circumstances which deprived him of the aid or advice of the senate. After the committee had remained a reasonable time for the president to make any other observations if he thought proper to do so, and observing no disposition manifested by him to enter into further remarks, the committee retired without making any observations on the matter of the resolutions, or in reply to those made by the president.

Copy of a letter from the chairman of the committee on the nomination of Albert Gallatin, to the president of the United States.

Sir, *July 12th*, 1813.

The committee to whom was referred the nomination of Albert Gallatin, to be one of the envoys extraordinary and ministers plenipotentiary, to negociate and sign a treaty of peace with

Great Britain, under the mediation of the emperor of Russia, to negociate and sign a treaty of commerce with Great Britain, and to negociate and sign a treaty of commerce with Russia, together with the message of the president of the 7th June, have directed me to enclose you a copy of two resolutions passed by the senate, and to request that you will be pleased to appoint such time to receive the committee as may entirely comport with your own convenience.

The committee sincerely lament, that your indisposition for some time past has been such as would have rendered it improper to have addressed you upon this subject at an earlier period; and are now much gratified to learn that you are so far restored to your health as to be enabled to attend to your official duties.

Accept my best wishes for a perfect restoration of your health, and assurance of my high respect.

JOSEPH ANDERSON,
Chairman of the Committee.

President's Reply.

J. Madison presents his respects to Mr. Anderson, and informs him that he will, on Friday next, at 11 o'clock, receive the committee of the senate instructed to communicate to the president their resolution of the 16th ult. The committee are apprised, by his late message to the senate, of the grounds on which he will be obliged to decline the proposed conference with the committee upon the matter of that resolution.

Wednesday, July 14, 1813.

After the report was read, the appointment of Mr. Gallatin was negatived, by a majority of one vote. The appointments of Mr. Adams and Mr. Bayard were agreed to by large majorities.

§ 6. The following message to the senate from the president of the United States, was received on the same day with that communicating the nomination of the embassadors to Russia.

To the Senate of the United States.

The Swedish government having repeatedly manifested a desire to interchange a public minister with the United States, and having lately appointed one with that view, and other considerations concurring to render it advisable at this period to make a correspondent appointment, I nominate Jonathan Russell, of Rhode-Island, to be minister plenipotentiary of the United States to Sweden.

May 29th, 1813. JAMES MADISON.

* See this message in page 145.

After the reading of the message, the following resolution was agreed to, and the secretary ordered to lay it before the president.

Resolved, That the president of the United States be requested to cause to be laid before the senate the correspondence which may have passed between the United States and the king of Sweden, respecting the interchange of public ministers between the said governments.

The following message and report was received in answer.

To the Senate of the United States.

I transmit to the senate a report of the secretary of state, complying with their resolution of the third instant.

JAMES MADISON.

Washington, June 7th, 1813.

The report and documents are as follow:

The secretary of state, to whom was referred the resolution of the senate of the 3d inst., requesting the president to cause to be laid before the senate, the corresspondence which may have passed between the United States and the king of Sweden, respecting the interchange of public ministers, has the honour to report to the president, that no direct correspondence has taken place on the subject.

In reference to the object of the resolution, the secretary of state submits several extracts of letters from Mr. Speyer, consul of the United States at Stockholm, and a letter from Mr. Beasley, commissary of prisoners at London, by which the wishes and intentions of the Swedish government in relation to the interchange of ministers have been made known to this department.

Respectfully submitted,

JAMES MONROE.

Department of State, June 7th, 1813.

(Copy.) *Mr. Beasley to the Secretary of State.*

London, December 12, 1813.

Sir,

Referring to my letter of the 10th instant, I have now the honour to transmit a copy of the letter which I informed you that I had received from Mr. Speyer, and of that which I stated it was my intention to address to him, on the subject of our relations with Sweden.

Notwithstanding the present apparent irritation of the Swedish government, I have been assured by Mr. De Kantzow,

and I learn from other sources, that it has invariably manifested the most friendly disposition towards the United States. Those American vessels which have sought shelter in its ports have experienced perfect protection. British cruisers are not allowed within its territories to dispose of prizes they make from the United States; and in some instances the protection of Swedish convoy has been afforded to American vessels passing through the sound.

Indeed this circumstance, Mr. De Kantzow informed me, had been mentioned to him by lord Castlereagh with no satisfaction.

I fear, however, that the art and intrigues of our enemy will, if not speedily counteracted, produce a state of things equally unfriendly. I collect from various quarters that considerable dissatisfaction is entertained by the Swedish government that the United States have not appointed a minister near it.

The jealousy which has long existed between Sweden and Denmark, is said to have contributed no little to the feeling to which this mission has given rise, seeing that the United States have had a minister near the Danish government. Mr. De Kantzow seemed anxious to know whether a minister was or would be appointed; and I am inclined to believe that his stay here is prolonged on that account.

The crown prince is fond of court and splendour; the government is poor; and to say nothing of the two great spoliators, the example of Denmark is immediately before it.

I beg to add, that the result of all the information I can collect, is, that the fate of all the American property, now in the dominions of Sweden, will depend on the course which the government of the United States may pursue on this critical and delicate emergency.

I have the honour to be, with the greatest respect, your most obedient humble servant,

R. G. BEASLEY.

Extract of a letter from John Speyer, Esq., consul of the United States at Stockholm, to the Secretary of State; dated
(No. 10.) *Stockholm, 18th January, 1812.*

The minister of foreign affairs, in the course of our conversation yesterday, mentioned that both the king and prince royal were desirous to maintain and extend the friendly relations and commercial intercourse now subsisting between us, and intend to send a minister or charge des affaires to the United States.—He would name the person designated for that mission, were it ascertained whether he accepted of it.

Extract of a letter from the Same to the Same, dated

(No. 11.) *Stockholm, 21st January*, 1812.

The gentleman mentioned in my No. 10, as intended to be sent to the United States, is Mr. Kantzow, who lately returned from Brazils, where he resided charge des affaires of the king several years; he had before been consul-general of Sweden, in Portugal.

He informed me yesterday, that he was to go as charge des affaires, which he refused, but consented to accept the appointment of minister.

From the personal knowledge I have of Mr. Kantzow, I think him well calculated to contribute to the good understanding of our respective governments.

Mr. Speyer to the Secretary of State.

(Extract.) *Stockholm, 31st March*, 1812.

On the 24th the minister of foreign affairs told me that the king had, on that day, directed him to inform me, that he would send Mr. Kantzow as minister resident to the United States. I understand that Mr. Kantzow is to leave this with his family, early in May, by way of England.

Same to the Same.

(Extract.) *18th May*, 1812, *Orebro.*

Mr. Kantzow, who is appointed minister to the United States, is still here; he expects to receive his instructions soon, when he will set out on his voyage.

From the Same to the Same.

(Extract.) *Stockholm, 25th September*, 1812.

Mr. Kantzow has received his credentials as minister resident at Washington, and was despatched from Orebro on the 15th ult. He is now in London, and will probably remain there next winter. The prince royal informed me the 4th inst. that he had directed Mr. Kantzow to represent to the English government, his desire to see a good understanding restored with the United States.

From the Same to the Same, dated

(Extract.) *Stockholm, 25th September*, 1812.

As this government expect the appointment of a minister or a charge des affaires in return for Mr. Kantzow's mission, I have not presented the commission as consul for this place. I am apprehensive, it might be ungraciously received here, after their notification of the appointment of a minister.

Previously to the receipt of this message, a motion had been submitted by Mr. Goldsborough, which was amended as follows, and the resolution, together with the nomination of Mr. Russell, were referred to Mr. Goldsborough, Mr. Anderson, and Mr. King, to inquire and report thereon.

Resolved, That the president of the United States be requested to inform the senate, whether any communication has been received from Jonathan Russell, admitting or denying the declaration of the duke of Bassano to Mr. Barlow, that he had informed his predecessor of the repeal of the Berlin and Milan decrees at the date of that decree.

The committee, on the 7th of June, reported, "that, in pursuance of the order of the senate, the committee met the secretary of state, by appointment, at the office of the department of state, when they were informed by the secretary, that there was no official denial or admission of Mr. Jonathan Russell, that the allegation of the duke of Bassano to Mr. Barlow referred to was true; but that he (the secretary) had a private letter from Mr. Russell, subsequent to the allegation of the duke of Bassano, in which he understood that allegation to be unequivocally denied."

On the 14th, the subject was referred to another committee, consisting of Mr. Wells, Mr. Giles, and Mr. King, with instructions to confer with the president on the subject of the nomination, and report thereon.

In answer to a note of the chairman of the committee, communicating a transcript of the resolution of the senate, and inquiring when it would be convenient for the president to receive the committee, Mr. Madison appointed next day, at 11 o'clock. Being prevented, however, by a severe indisposition from seeing them, on the 23d the secretary of state wrote the following letter to the committee.

Gentlemen, *Department of State, June 23d*, 1813.

The indisposition of the president continuing, I am instructed by him to express to you his great regret at the delay to which it has already subjected the proceedings of the senate on the nomination of the minister plenipotentiary from the United States to Sweden. To prevent any further delay from that cause, he has authorized me to confer with you on that subject, and to communicate to you any information which you may be desirous of obtaining from the executive relating to it.

I will have the honour to meet you, for this purpose, at such place and hour as you will have the goodness to appoint.

I have the honour to remain, gentlemen, very respectfully, your obedient humble servant,

JAMES MONROE.

The Hon. Messrs. Wells, Giles, and King.

Answer from the Chairman of the Committee.

Sir, *Committee Room, 24th June*, 1813.

The committee of the senate appointed to confer respectfully with the president of the United States on the nomination made by him of a minister plenipotentiary to Sweden, have had the honour this morning to receive your letter of yesterday.

The committee heard with real concern of the continued indisposition of the president; but as they presume that there are connected with this nomination no considerations of so urgent a nature as to require an immediate decision upon it, they will wait with pleasure for the conference they have been ordered by the senate to request of the president, until the restoration of his health takes place.

I have the honour, sir, to be, with the highest consideration, your very obedient servant,

WM. HILL WELLS,

Chairman of the committee of the senate on Mr. Russell's nomination.

On the 6th of July the following message was received from the president.

To the Senate of the United States.

I have received from the committee appointed by the resolution of the senate of the 14th day of June, a copy of that resolution, which authorizes the committee to confer with the president on the subject of the nomination made by him of a minister plenipotentiary to Sweden.

Conceiving it to be my duty to decline the proposed conference with the committee, and it being uncertain when it may be convenient to explain to the committee, and through them to the senate, the grounds of my so doing, I think it proper to address the explanation directly to the senate. Without entering into a general review of the relations in which the constitution has placed the several departments of the government to each other, it will suffice to remark, that the executive and senate, in the cases of appointments to office and of treaties, are to be considered independent and co-ordinate with each other. If they agree, the appointments or treaties are made. If the senate disagree, they fail. If the senate wish information previous to their final decision, the practice, keeping in view the constitu-

tional relation of the senate and executive, has been, either to request the executive to furnish it, or refer the subject to a committee of their body to communicate, either formally or informally, with the head of the proper department. The appointment of a committee of the senate to confer immediately with the executive himself, appears to lose sight of the co-ordinate relation between the executive and the senate, which the constitution has established, and which ought therefore to be maintained.

The relation between the senate and house of representatives, in whom legislative power is concurrently vested, is sufficiently analogous to illustrate that between the executive and senate in making appointments and treaties. The two houses are, in like manner, independent of and co-ordinate with each other; and the invariable practice of each, in appointing committees of conference and consultation, is to commission them to confer, not with the co-ordinate body itself, but with a committee of that body. And although both branches of the legislature may be too numerous to hold conveniently a conference with committees, were they to be appointed by either to confer with the entire body of the other, it may be fairly presumed, that if the whole number of either branch were not too large for the purpose, the objection to such a conference, being against the principle, as derogatory from the co-ordinate relations of the two houses, would retain all its force.

I add only that I am entirely persuaded of the purity of the intentions of the senate, in the course they have pursued on this occasion, and with which my view of the subject makes it my duty not to accord: and that they will be cheerfully furnished with all the suitable information in possession of the executive, in any mode deemed consistent with the principles of the constitution and the settled practice under it.

Washington, July 6, 1813. JAMES MADISON.

On the 9th, the senate, yeas 22, nays 14, resolved, that it is inexpedient at this time to send a minister plenipotentiary to Sweden; and the secretary was ordered to lay the resolution before the president of the United States.

As executive business is transacted in the senate with closed doors, we are not in possession of any debates on this question. Mr. Giles, however, one of the senators from Virginia, in an address to his constituents lately published, states, that the senate, from the want of definite information on the subject, were not able to comprehend with sufficient certainty the real policy or object of the nomination. That if the object was of a temporary character, and consisted in the policy of soliciting the

interposition of Sweden as auxiliary to the mediation of Russia, for he purpose of obtaining peace with Great Britain, which was seriously apprehended, he could not reconcile it with his duty to advise an appointment, which, in his view, would rather have a tendency to prolong the war, than to accelerate a peace, by betraying an unbecoming solicitude for that event. Would not this, Mr. Giles asks, rather induce Great Britain to conclude that the United States were labouring under some unknown incapacity to carry on the war, and thus encourage her to prolong it, for the purpose of developing these embarrassments, and with the hope of finally reducing us to submission?

If nothing of this kind was intended, the nomination of a minister plenipotentiary appeared to indicate a general change upon a point of policy hitherto held sacred by government, to wit, not to extend political connexions in Europe, nor multiply diplomatic agencies there, especially with the minor powers. The resolution of the senate, Mr. Giles adds, was not intended to preclude the president from nominating Mr. Russell or any other person as a minister resident to Sweden, corresponding with the one sent here on her part. Had this been done, says he, although its utility in some respects might have been questioned, I do not believe there would have been in the senate one solitary objection to the measure, nor to Mr. Russell as the person nominated.

Another measure recommended by the president was frustrated by the senate this session:

§ 7. On the 20th of July, the following confidential message was received from the president by both houses, which was read with closed doors.

To the Senate and House of Representatives of the United States.

There being sufficient ground to infer that it is the purpose of the enemy to combine, with the blockade of our ports, special licenses to neutral vessels, or to British vessels in neutral disguises, whereby they may draw from our country the precise kind and quantity of exports essential to their wants, whilst its general commerce remains obstructed; keeping in view also the insidious discrimination between different ports of the United States; and as such a system, if not counteracted, will have the effect of diminishing very materially the pressure of the war on the enemy, and encouraging a perseverance in it, at the same time that it will leave the general commerce of the United States under all the pressure the enemy can impose, thus subjecting the whole to British regulation, in subserviency to British monopoly—I recommend to the consideration of congress the expediency of an immediate and effectual prohibition of ex-

ports, limited to a convenient day in their next session, and removable, in the mean time, in the event of a cessation of the blockade of our ports.

Washington, July 20, 1813. JAMES MADISON.

In the house of representatives the message was referred to the committee of foreign relations, who, the following day, reported that they were "of opinion that it would be expedient to adopt the measure submitted by the message to the consideration of the house." The house concurred in this report, yeas 78, nays 51, and it was then referred to a select committee, with instruction to report a bill in conformity thereto.

On the 22d, Mr. Grundy, from the select committee, reported a bill laying an embargo on all ships and vessels in the ports and harbours of the United States which the same day passed by yeas and nays, yeas 80, nays 50.

The following day the bill was sent to the senate for concurrence, and after considerable discussion was finally negatived on the 28th, 16 voting for the passage of the bill, and 18 against it.

§ 8. On the 29th of June Mr. Pickering, in the house of representatives, presented a remonstrance from the legislature of Massachusetts on the subject of our foreign relations. This remonstrance, after taking "a review of the alleged causes of the war against Great Britain, and more particularly the pretences for its continuance, after the principal one was removed," concludes that the declaration of war was premature, and that the perseverance in it after the repeal of the orders in council was known "was improper, impolitic, and unjust." They therefore most earnestly request, "that measures may immediately be adopted to stay the sword of the destroyer, and prevent the further effusion of human blood; that our invading armies may be forthwith recalled within our own territories; and that every effort of our rulers may be speedily directed to the attainment of a just and honourable peace; that mutual confidence and commercial prosperity may be again restored to our distracted and suffering country; and that by an upright and faithful administration of our government, in the true spirit of the constitution, its blessings may be equally diffused to every portion of the union."

The remonstrance likewise adverts to the admission of Louisiana into the union, a country beyond the territorial limits of the United States at the time of the formation of the national compact. "Against a practice," say the memorialists, "so hostile to the rights, the interests, the safety of this state, and so destructive to her political power; so subversive of the spirit of the constitution, and the very principles upon which it is found-

ed; your remonstrants, in the name and behalf of the commonwealth of Massachusetts, feel it their duty to enter their most deliberate and solemn protest."

After the reading of the memorial, Mr. Pickering moved that it be referred to a committee of the whole on the state of the union.

§ 9. Mr. Robertson, of Louisiana, moved to except from the general reference so much of the memorial as relates to the admission of Louisiana into the union, on the ground that congress had no right to make the sovereignty of any state a subject of enquiry. Louisiana having been solemnly and legally admitted into the union, her rights could not be questioned by congress.

Mr. Fisk (of New York) having moved that the petition lie on the table, on the ground that it would be improper, if not impossible, for congress to legislate on any part of it, Mr. Pickering waved his motion for reference, having no objection that for the present it should lie on the table.

Mr. Bigelow moved that the remonstrance be printed. This motion was advocated by Mr. Rhea and Mr. Farrow, because they had not been able to hear the paper read; by Mr. Macon, on the ground that Massachusetts was entitled to be heard; by Mr. Brigham and Mr. Baylies, because respect was due to the source from which it came; by Mr. Montgomery, Mr. Ingersoll, Mr. Fisk, of Vermont, and Mr. Calhoun, because it was high time that the memorial and all such papers should be met with reason and argument on the floor of congress, and that their fallacies should be exposed.

Mr. Robertson moved to except from printing that part relative to Louisiana, for the same reasons that he had opposed its reference.

Mr. Fisk (New York) opposed the printing, because no legislative act could grow out of it; Mr. Wright, Mr. Farrow, and Mr. Bibb, because it was unnecessary.

The motion to except from printing that part of the memorial relative to Louisiana was negatived, and the whole was ordered to be printed, ayes 108.

The memorial, together with a protest of the minority of the legislature of Massachusetts, will be found among the documents of this session, near the end of the volume.

§ 10. On the 15th of June, at the instance of Mr. Pitkin, a resolution was referred to the committee on military affairs, directing them to inquire whether any, and if any what alterations are necessary in the act, entitled "an act making provision for arming and equipping the whole body of the militia of the United States;" and particularly as to the time when the arms pro-

cured by virtue of this act shall be distributed to each state and territory.

This act, which was passed on the 23d of April, 1808, appropriates $200,000 annually for the purpose of providing arms and military equipments for the whole body of the militia of the United States, and provides that all the arms procured in virtue of this act shall be transmitted to the several states and territories composing the union, in proportion to the number of the effective militia in each state and territory, to be distributed to the militia under the direction of the several legislatures.

On the 8th of July the committee reported that the funds appropriated by the act of the 23d of April for arming the whole body of the militia, amounted, on the 23d day of April last, to one million of dollars; that of this sum 94,792 dollars had been actually expended, and that the whole number of arms procured up to this day amounted to 34,477 stands, all derived under contracts of supply; and that of these the following disposition had been made, viz:

Before the 24th December, 1812.

New Hampshire	1,000
Vermont	2,500
Rhode Island	1,000
New Jersey	1,000
Delaware	500
North Carolina	2,130
South Carolina	2,000
Georgia	1,000
Ohio	1,500
Kentucky	1,500
Tennessee	1,500
Illinois territory	216
Indiana territory	
Louisiana	250

Since the 24th of December, 1812.

Connecticut	2,000
New York	2,000
Maryland	1,500
Louisiana	1,500
Ohio	1,500
District of Columbia	2,200

Making an aggregate of 26,000 stands delivered, and leaving a balance of 8,477 stands subject to future distribution.

It had been suggested by some of the members, that each transmission or distribution of arms should be in the proportions pointed out by the law, and that no discretion was left

with the executive as to furnishing them first to those states that were most exposed and worst provided. The committee, however, expressed a different opinion. They contended, that if it had been the intention of the legislature to bind the executive to a simultaneous or periodical transmission, the language of the law would have been "shall be transmitted at the same time," or "shall be transmitted biennially or triennially." The committee likewise reported that in their opinion no alteration in the law was requisite. That if a periodical and simultaneous distribution were ordered, it might happen that within the limited period so few arms might be received, that the expence of distribution might exceed that of their manufacture; that in small numbers they might be lost in the transmission, or would be suffered by the states to lie neglected and forgotten; and that it appeared to them that the executive had pursued the wisest course, by distributing them, at first, according to the wants, the frontier position, and the actual exposure of the states.

§ 11. On the 10th of July, Mr. J. G. Jackson, in the house of representatives, presented a resolution proposing amendments to the constitution. Mr. Jackson said, that he presented this resolution, not with a view to ask a decision on any question involved in its scope during the present session; but in order that at the commencement of the next session it might be taken up, and, if sanctioned by congress, be presented to the state legislatures, in time to be acted on at their winter sessions; so that the nation might possess the benefits it contemplated as soon as practicable. In the mean time, the members of congress and the states can deliberate on the subject, and be prepared then to pronounce their decision. The first amendment proposes to authorise congress to lay a tax on exports—a power indispensable to counteract the measures of foreign nations who tax their exports to this country, and collect from that source a large revenue annually, which falls upon the consumer, and consequently is a tax on the United States. The other three amendments propose authorising congress to make roads and canals, and to establish a national bank—the first of which was linked with the internal prosperity of the country, and the last almost indispensable to a due execution of the fiscal concerns of the nation. I am aware, said Mr. Jackson, that many persons in the nation believe that congress are already clothed with these powers; but it is equally true that a great portion also deny the authority, whilst almost all, I believe, agree that it is proper and necessary to possess it. It is therefore the dictate of sound reason to reconcile these opinions by the express grant, in preference to re-

sorting to construction and implication, which are always dangerous, and may be rendered wholly unnecessary.

Mr. Jackson then read the following resolution:

Resolved, by the senate and house of representatives of the United States of America in congress assembled, two thirds of both houses concurring, that the following articles be proposed as amendments to the constitution of the United States, each of which, when ratified by three-fourths of the said legislatures, shall be valid to all intents and purposes, as part of the said constitution.

1. Congress shall have power to lay a tax or duty on articles exported from any state.

2. Congress shall have power to make roads in any state, with the consent of the state within which the same shall be made.

3. Congress shall have power to make canals in any state, with the consent of the state within which the same shall be made.

4. Congress shall have power to establish a national bank, with branches thereof in any state or territory of the United States.

Mr. Jackson said it was his intention to limit the law for taxing exports to an ad valorem duty on all articles exported, but he thought it best to present the simple proposition, without details, which may be supplied hereafter.

The resolutions were ordered to lie on the table.

§ 12. In each of the two last sessions of congress a bill had been passed by the house of representatives, making provision for the naturalization of British subjects who had settled here before the war with the intention of becoming citizens. The first of those bills had been rejected by the president, the second by the senate. The subject was again taken up this session, and a bill finally enacted into a law on the 30th of July. This law provides, that persons resident in the United States at the time of the declaration of war, who had before that period made a declaration according to law, of their intention to become citizens of the United States, or who by the existing laws were entitled to become citizens at that period without making such declaration, may be naturalized, notwithstanding they may be alien enemies. Nothing in this law, however, is to be construed so as to prevent the apprehension and removal, agreeably to law, of any alien enemy, previous to his naturalization.

§ 13. A bill had likewise passed the house of representatives last session, which had failed in the senate, for prohibiting the use of licences from the government of Great Britain by Ame-

rican vessels. The proclamation of the governor of Bermuda, however (see Congressional Documents), presented the subject in a more striking light, and a law was passed, which enacts that any person concerned in obtaining or using, granting or selling such licences, shall, upon conviction, for every such offence, forfeit a sum equal to twice the value of vessel and cargo, and moreover be adjudged guilty of a misdemeanour, and be fined in a sum not exceeding five nor less than one thousand dollars. A ship found in the waters of the United States having such licence, is also declared forfeited with her cargo, one half to the United States, the other to the informer, after the duties are paid out of the proceeds of the sale of the cargo. The public and private armed vessels of the United States are likewise authorized and instructed by the act to send in as prizes all vessels having such licences. The act is to be enforced as to all American vessels clearing from any port in the United States after the promulgation of the act at the port of clearance; to all American vessels in Europe, in the Mediterranean, or the western coast of Africa, after the first of November, 1813; and in any port east of the Cape of Good Hope after the first of January, 1814. Exceptions are made in case of unavoidable accidents, &c.

§ 14. A memorial was presented to congress by Stephen Girard and others, owners of certain ships which had been seized in the Delaware for a breach of the non-intercourse law. It appears that those ships had sailed from Great Britain for Amelia island, in East Florida, with cargoes, the entrance of which into the United States was prohibited by law. These vessels were lying in one of the ports of that island, when it was taken possession of by general Matthews, under a pretended authority of the government of the United States.

§ 15. From the documents that were published at the time this extraordinary transaction took place, it appears, that general Matthews and colonel John M'Kee were appointed commissioners for carrying into effect certain provisions of an act of congress relative to the Floridas.

The right to a part of these provinces had been a subject of negociation for a considerable period between Spain and the United States, and it is understood that the cession of the remainder was expected to take place, as indemnities for certain spoliations by Spain on the commerce of the United States. The revolutions that were taking place in Spanish America rendered the retaining possession of the Floridas by the Spanish government very precarious, and the claims of the United States, though they did not consider them as authorizing the

taking the country from the existing government, rendered them unwilling to let it pass into other hands. A law was therefore passed, authorizing the president to take possession, in case of the inability of the existing government to hold the country.

The commissioners were instructed by the department of state, in case they should discover an inclination in the governor of either of the Floridas, or in the local authorities existing there, to surrender those provinces into the possession of the United States, to accept such surrender, and, if required, to stipulate for the re-delivery of it, at a future period, to the lawful sovereign. The commissioners were further instructed, in case of the actual appearance of any attempt by a foreign power to take possession of the provinces, to take immediate effective measures for their occupation by the troops of the United States, and for the exclusion of the foreign force.

Without, however, either of those contingencies taking place, general Matthews took possession of Amelia island and several other parts of East Florida. As soon as the government of the United States received intelligence of this transaction, the general was superseded, and Governor Mitchell, of Georgia, appointed in his place, with instructions immediately to restore the country to the Spanish authorities.

Meanwhile Matthews had established a local government in Amelia island, to whom the agents of the petitioners, deeming their situation insecure, applied for permission to proceed to Philadelphia with the property, under such conditions and restrictions as might secure it from the penalties and forfeitures, to which, by the then existing laws, it would be exposed if imported into the United States. This request was granted, general Matthews considering, as he himself expressed it, "that the vessels and cargoes were already under the protection of the flag of the United States, and within the waters of an integral part of our common country," and that they would not therefore be subjected, by going to Philadelphia, to the prohibitions of the non-importation law. He directed that the vessels and cargoes should be delivered in charge to the collector of Philadelphia, and should so remain until the determination of the government respecting them should be known, and took bonds for the performance of this condition.

On the arrival of those vessels in the river Delaware, on their way to Philadelphia, they were seized by the collector of the district of Delaware.

The grounds on which the memorialists asked for relief were, that the lading of the merchandize on board their ships, in the

first instance, was without any intention to violate the provisions of the non-importation act, as it was not their intention that it should at any time enter the United States in contravention of the laws; that their property was withdrawn from England in the apprehension of its insecurity there from an approaching state of war; and that it was placed in a situation recommended by its supposed safety, and by its proximity to the United States, to await the time when it might, by an expected act of the government, be made lawful to introduce it into the United States. That the importation, when actually made, was supposed not to be illegal. The powers which general Matthews assumed to possess at Amelia island could not, from the nature of the case, be investigated by the agents of the memorialists. He pretended to have authority for what he did; and exterior circumstances justified a belief that his acts were directed and would be sanctioned by the government. The vessels and their cargoes, on their arrival in Philadelphia, were to be put in possession of the collector of the customs, and no intention of a clandestine or fraudulent introduction of any part of the merchandize was entertained in the remotest manner by the memorialists.

In consideration of these circumstances, an act was passed admitting the vessels to entry, and remitting the fines and forfeitures, upon the same conditions as the vessels which had arrived from Great Britain after the revocation of the orders in council.

§ 16. Several acts were passed during the session making further provision for the defence of the country. The president was authorized to enlist five of the twelve months' regiments to serve during the war; their service to be limited to the seaboard of the United States, and to be placed in every respect on the same footing as other regular troops. The president was also authorized, whenever it should be deemed necessary for the defence and security of any of the ports and harbours of the United States, to hire or purchase hulks or other means of impediment to the entrance of hostile ships, to be sunk in the harbours, with the consent of the respective state authority, and to be raised on the removal of danger. Such a number of barges as the president might think necessary, were also authorized to be built, of a size not less that forty-five feet long, and capable of carrying heavy guns, to be armed, equipped, and manned as the president should direct. A corps of sea fencibles was also authorized, to consist of not more than ten companies, who may be employed as well on land as on water, for the defence of our ports and harbours, each company to consist of a captain, a first, second,

and third lieutenant, a boatswain, six gunners, six quarter gunners, and ninety men. These sea-fencibles are to be in every respect on the same footing as the officers and men of the naval establishment. Their term of enlistment is not to exceed twelve months; the act to continue in force to the end of the war. For the protection of the western frontier, the act authorizing the raising of rangers was continued in force for another year. An act was also passed authorizing the appointment of an additional number of deputy commissaries of ordnance, not exceeding five.

§ 17. An act was also passed granting half pay for five years to the widows or orphans of commissioned officers in the militia or volunteer corps who should die by reason of any wound received in the actual service of the United States; this act likewise provides that the officers and soldiers of the militia and volunteers who may be disabled in actual service shall be placed on the list of invalid pensioners. The pension to be proportioned to their rank, and the degree of disability.

§ 18. Twenty-five thousand dollars were appropriated as prize-money to the officers and crew of the Hornet, for the destruction of the Peacock; and twelve thousand to lieutenant Elliott and his companions, for the destruction of the Detroit on lake Erie.

§ 19. As an encouragement to privateers, an act was passed allowing a deduction of thirty-three and a third per cent. on the duties on prize goods. A bounty of twenty-five dollars was likewise authorized to be paid them for every prisoner captured and delivered to an agent in the United States.

§ 20. Two acts were passed this session for the regulation and encouragement of the fisheries. The first act provides, that the master or skipper of any vessel of the burthen of twenty tons or upwards, qualified according to law for carrying on the bank and other cod fisheries, bound from a port of the United States to be employed in such fishery, at sea, shall, before proceeding on such fishing voyage, make an agreement in writing or print with every fisherman who may be employed therein (except apprentices or servants); and, in addition to such terms of shipment as may be agreed on, shall in such agreement express whether the same is to continue for one voyage or for the fishing season, and shall also express that the fish or the proceeds of such fishing voyage or voyages which may appertain to the fishermen, shall be divided among them in proportion to the quantities or number of said fish which they may respectively have caught; which agreement shall be endorsed or countersigned by the owner of such vessel or his agent. And if any fisherman, hav-

ing engaged himself for a voyage or for the fishing season, in any fishing vessel, and signed an agreement therefor as aforesaid, shall, while such agreement remains in force, desert or absent himself from such vessel without leave of the master or skipper, such deserter shall be liable to the same penalties as deserting seamen or mariners are subject to in the merchant service, and may in like manner be apprehended and detained; and all costs of process and commitment, if paid by the master or owner, shall be deducted out of the share of fish, or proceeds, to which such deserter had become entitled. And any fisherman, who shall during such fishing voyage refuse or neglect his proper duty on board the fishing vessel, besides being answerable for all damages arising thereby, shall forfeit to the use of the owner of such vessel his share of any public allowance which may be paid upon such voyage. Where an agreement or contract shall be so made and signed for a fishing voyage or for the fishing season, and any fish which may have been caught shall be delivered to the owner or his agent for cure, and shall be sold by such owner or agent, such vessel shall, for the term of six months after the sale, be liable and answerable for the skipper's and every other fisherman's share of the fish.

The second act provides that a bounty shall be paid by the district collectors, on the last day of December annually, from and after the last day of December, 1814, to every vessel qualified by law for carrying on the bank and other cod fisheries, and that shall actually have been employed therein at sea for at least four months of the preceding fishing season, which season is accounted to be from the last day of February to the last day of November, for every ton of such vessel's burthen, according to her admeasurement as licensed or enrolled, if of twenty tons and not exceeding thirty tons, two dollars and forty cents, and if above thirty tons four dollars; of which allowance three eighth parts shall accrue to the owner of the fishing vessel, and the other five eighths to the several fishermen who have been employed during the season. The bounty however is not to exceed $272 on any one vessel for a season. Vessels of between five tons and twenty are likewise to receive $1 60 per ton, provided such vessel have landed in the course of the season at least twelve quintals for every ton of her admeasurement. No vessel of twenty tons or upwards is to be entitled to the bounty, unless a written or printed agreement is entered into conformable to the first-mentioned act. This act is to continue in force until one year after the conclusion of the present war.

§ 21. In consequence of the additional expenditures which were authorized during the session in the war and navy depart

ments, the committee of ways and means addressed a letter to the acting secretary of the treasury, inquiring what further provision was deemed necessary for meeting the public engagements. In answer it was stated, that the sum of two millions would be requisite to meet the additional expenditures, and calls of the militia which would probably be made in the course of the year; and, in order to avoid inconvenience to the public service, it was proposed, in addition to the two millions for the present year, that a loan should now be authorized, sufficient, with the sums receivable from the revenue, to defray the expenditures of the three first months of 1814. The demands on the treasury for that period were estimated at $7,500,000, and the revenue at about two millions, leaving a deficiency of five and a half millions, which, with the two additional millions for 1813, would make a total of seven millions and a half to be furnished by loan. In conformity to this estimate, a bill was reported by the committee, which passed into a law, authorizing a loan of $7,500,000. This act is similar in its provisions to the former law, except that it provided that no certificate of stock should be sold for less than $88 in money for $100 in stock*.

§ 22. The following additional appropriations for the support of government were made this session:

For expenses of intercourse with foreign nations, in addition to the sum heretofore appropriated	38,500
For the relief and protection of American seamen, in addition to the sums heretofore appropriated	40,000
For fitting up four rooms in the building purchased by the United States where the general post-office is held, for the use of the superintendant general of military supplies	2,039 12½
For books, stationary, furniture, wood, and other contingent expenses	1,000

The sum of $9,500 was likewise appropriated for finishing the senate chamber, and repairing the roof of the north wing of the capital.

The president was authorized to sell such part of the furniture and equipage belonging to his household as might be out of repair, and the sum of $14,000 was appropriated, in addition to

* On the day fixed by law for receiving proposals for this loan of $7,500,000 proposals for more than $12,500,000 were offered. The loan was taken at $88 25 in money for $100 in stock. The privilege of prompt payment for the latter instalments not being given to the lenders in this loan, a measure which subjects the treasury to pay interest on money before it is wanted, the terms are considerably more favourable to government than those on which the loan of sixteen millions, authorized last session, was procured.

the proceeds of the sale, for the purchase of new, at his discretion, and under his direction.

§ 23. On the 9th of July, Mr Bradley submitted a resolution in the house of representatives for the appointment of a committee to inquire into the causes of the multiplied failures of the arms of the United States in their land operations. The resolution was opposed on the ground of its being impracticable at the present moment, as it could not be carried into effect without withdrawing the officers of the army from their duties in the midst of the campaign. It was accordingly decided that the resolution should lie on the table.

§ 24. Toward the end of the session, the committee of the house of representatives, to whom had been referred so much of the president's message as relates to the spirit and manner in which the war has been waged by the enemy, made the following report to the house, accompanied with an immense body of evidence in proof of the circumstances stated in the report, of which the length precludes an insertion here. The committee report, that they have collected and arranged all the testimony on this subject which could at this time be procured. This testimony is submitted to the consideration of the house, arranged under the following heads:

First. Bad treatment of American prisoners:

Second. Detention of American prisoners as British subjects, on the plea of nativity in the dominions of Britain, or of naturalization:

Third. Detention of mariners as prisoners of war, who were in England when the war was declared:

Fourth. Compulsory service of impressed American seamen on board British ships of war:

Fifth. Violation of flags of truce:

Sixth. Ransom of American prisoners from Indians in the British service:

Seventh. Pillage and destruction of private property on the Chesapeake bay, and in the neighbouring country.

Eighth. Massacre and burning of American prisoners surrendered to officers of Great Britain, by Indians in the British service. Abandonment of the remains of Americans killed in battle, or murdered after the surrender to the British. The pillage and shooting of American citizens, and the burning of their houses after surrender to the British, under the guarantee of protection:

Ninth. Outrages at Hampton in Virginia:

The evidence under the first head demonstrates that the British government has adopted a rigor of regulation unfriendly to

the comfort and apparently unnecessary to the safe keeping of American prisoners generally. It shows also instances of a departure from the customary rules of war, by the selection and confinement in close prisons of particular persons, and the transportation of them for undefined causes from the British colonies to the island of Great Britain.

The evidence under the second head establishes the fact, that however the practice of detaining American citizens as British subjects may be regarded as to the principle it involves, that such detentions continue to occur, through the agency of the naval and other commanders of that government. It proves, too, that however unwilling to allow other nations to naturalize her subjects, Great Britain is disposed to enforce the obligation entered into by their citizens when naturalized under her own laws. This practice, even supposing the release of every person thus detained, obviously subjects our captured citizens, upon mere suspicion, to hardships and perils from which they ought to be exempt, according to the established rules in relation to prisoners of war.

The evidence under the third head shows, that while all other Americans were permitted to depart within a reasonable time after the declaration of war, mariners who were in the kingdom of Great Britain in time of peace for lawful purposes, or were forced into them under the pretence of illegal commerce, are considered prisoners of war. The injustice of this exception is not more apparent than the jealousy it discloses towards that useful class of our fellow citizens. But the committee cannot but remark, that if the practice of hiring American seamen to navigate British vessels is generally adopted and authorised, and that it is suffered appears from the advertisement of George Maude, the British agent at Port Royal, which is to be found with the testimony collected under the first head, that the naval strength of that empire will be increased in proportion to the number of our seamen in bondage. The present war having changed the relation of the two countries, the pretended right of impressment can no longer be exercised, but the same end may be accomplished by the substitution of this mode. Every seaman thus employed (the terms of whose engagement have not been ascertained) increases the naval strength of the enemy, not only by depriving the United States of his active services, but by enabling Great Britain to carry on and even extend her commerce without diminishing the number of sailors employed in her vessels of war.

The testimony collected under the fourth head proves, that it is the ordinary practice of the officers of British armed ves-

sels to force impressed Americans to fight against their country by threats, by corporal punishment, and even by the fear of immediate execution—an instructive commentary upon the professions of the government, of its readiness to release impressed American seamen found on board of ships of war.

On the evidence collected under the fifth head it is only necessary to observe, that in one case, the case of Dr. M'Keehan, the enormity is increased by the circumstance of the flag being divested of every thing of a hostile character, having solely for its object the relief of the wounded and suffering prisoners who were taken at the river Raisin, on the 22d January, 1813. The treatment of Dr. M'Keehan, not by the allies of Britain, but by the officers of her army, can only be rationally accounted for by the supposition, that it was considered good policy to deter American surgeons from going to the relief of their countrymen, as the Indian surgeons had a more speedy and effectual mode of relieving their sufferings.

The evidence respecting the ransom of American prisoners from Indians, collected under the sixth head, deserves attention, principally from the policy it indicates, and as it is connected with Indian cruelties. Considering the savages as an auxiliary military force in the pay of Great Britain, the amount of ransom may be regarded as part of their stipulated compensation for military services; and as ransoms would be increased and their value enhanced by the terror inspired by the most shocking barbarities, it may be fairly concluded, whatever may be the intention of the British government, that the practice of redeeming captives by pecuniary means will be occasionally quickened by the butchery of our fellow citizens, and by indignities offered to their remains, as long as the Indians are employed by the enemy. The justice of this conclusion is confirmed by the testimony of those witnesses who were retained after ransom as prisoners of war.

The testimony collected under the seventh head shows, that the private property of unarmed citizens has been pillaged by the officers and crews of the British vessels of war on our coast, their houses burnt, and places of public worship mutilated and defiled. It appears that the officers, animated by the presence of admiral Cockburn, particularly distinguished themselves in these exploits. This evidence proves, that they were governed by the combined motives of avarice and revenge; not satisfied with bearing off, for their own convenience, the valuable articles found, the others which furnished no allurements to their cupidity, were wantonly defaced and destroyed. It has been alleged, in palliation of these acts of wanton cruelty, that a flag sent on

shore by the admiral was fired upon by the American militia. The evidence proves this not to have been the fact. This pretence has been resorted to only to excuse conduct which no circumstances can justify.

The committee forbear to make any observations upon the testimony collected under the 8th head, from a perfect conviction that no person of this or any other nation can read the simple narrative of the different witnesses of the grossest violations of honour, justice, and humanity, without the strongest emotions of indignation and horror. That these outrages were perpetrated by Indians, is neither palliation nor excuse. Every civilized nation is answerable for the conduct of the allies under their command, and while they partake of the advantages of their successes, they are equally partakers of the odium of their crimes. The British forces concerned in the affair of the 22d at the river Raisin, are more deeply implicated in the infamy of these transactions than by this mode of reasoning, however correct. The massacre of the 23d January, after the capitulation, was perpetrated without any exertion on their part to prevent it; indeed, it is apparent from all the circumstances, that if the British officers did not connive at their destruction, they were criminally indifferent about the fate of the wounded prisoners. But what marks more strongly the degradation of the character of the British soldiers, is the refusal of the last offices of humanity to the bodies of the dead. The bodies of our countrymen were exposed to every indignity, and became food for brutes in the the sight of men who affect a sacred regard to the dictates of honour and religion. Low indeed is the character of that army which is reduced to the confession, that their savage auxiliaries will not permit them to perform the rites of sepulture to the slain. The committee have not been able to discover even the expression of that detestation which such conduct must inspire from the military or civil authority on the Canadian frontier, unless such detestation is to be presumed from the choice of an Indian trophy as an ornament for the legislative hall of Upper Canada.

The committee have considered it their duty to submit the evidence collected under the ninth head of the atrocities committed at Hampton, although these enormities have been committed since their appointment. These barbarities may be rationally considered as the consequence of the example set by the officers of the naval force upon our coast. Human turpitude is always progressive, and soldiers are prepared for the most dreadful crimes by the commission of minor offences with impunity. That troops who had been instigated by the example of their

officers, to plunder the property and burn the houses of unarmed citizens, should proceed to rape and murder, need not excite surprize, however it may inspire horror. For every detestable violation of humanity an excuse is fabricated or found. The wounded prisoners on the northern frontier were massacred by the Indians; the sick murdered, and the women violated at Hampton by the foreign troops in the pay of Great Britain. These pretexts, admitting them to be true, are as disgraceful as the conduct which made a resort to them necessary. Honour and magnanimity not only forbid the soldier to perpetrate crimes, but require every exertion on his part to prevent them. If, in defiance of discipline, acts of violence are committed upon any individual entitled to protection, the exemplary punishment of the offender can alone vindicate the reputation of the nation by whom he is employed. Whether such exertions were made by the British soldiers, or the character of the British nation thus vindicated, the evidence will show.

The shrieks of the innocent victims of infernal lust at Hampton were heard by the American prisoners, but were too weak to reach the ears or disturb the repose of the British officers, whose duty, as men, required them to protect every female whom the fortune of war had thrown into their power. The committee will not dwell on this hateful subject. Human language affords no terms strong enough to express the emotions which the examination of this evidence has awakened; they rejoice that these acts have appeared so incredible to the American people; and, for the honour of human nature, they deeply regret that the evidence so clearly establishes their truth. In the correspondence between the commander of the American and British forces, will be found what is equivalent to an admission of the facts by the British commander. The committee have yet to learn that the punishment of the offenders has followed the conviction of their guilt. The power of retaliation being vested by law in the executive magistrate, no measure is considered necessary to be proposed, but the resolution annexed to this report.

As such enormities, instead of inspiring terror, as was probably intended, are, in the opinion of the committee, calculated to produce a contrary effect, they submit for the consideration of the house the following resolution:

Resolved, That the president of the United States be requested to have collected and presented to this house during the continuance of the present war, evidence of every departure by the enemy from the ordinary modes of conducting war among civilized nations.

§ 25. Congress adjourned on the 2d of August, after a session of ten weeks. The first Monday in December following was fixed by law for their next meeting.

STATE PAPERS

LAID BEFORE

CONGRESS.

12th CONGRESS——2d SESSION.

Message from the President of the United States to both Houses of Congress at the commencement of the Session.

Fellow Citizens of the Senate and of the House of Representatives.

ON our present meeting it is my first duty to invite your attention to the providential favours which our country has experienced, in the unusual degree of health dispensed to its inhabitants, and in the rich abundance with which the earth has rewarded the labours bestowed on it. In the successful cultivation of other branches of industry, and in the progress of general improvement, favourable to the national prosperity, there is just occasion, also, for our mutual congratulations and thankfulness.

With these blessings are necessarily mingled the pressures and vicissitudes incident to the state of war, into which the United States have been forced by the perseverance of a foreign power, in its system of injustice and aggression.

Previous to its declaration, it was deemed proper, as a measure of precaution and forecast, that a considerable force should be placed in the Michigan territory, with a general view to its security, and, in the event of war, to such operations in the uppermost Canada, as would intercept the hostile influence of Great Britain over the savages, obtain the command of the lake on which that part of Canada borders, and maintain co-operating relations with such forces as might be most conveniently employed against other parts. Brigadier-general Hull was charged with

this provisional service; having under his command a body of troops, composed of regulars, and of volunteers from the state of Ohio. Having reached his destination after his knowledge of the war, and possessing discretionary authority to act offensively, he passed into the neighbouring territory of the enemy, with a prospect of easy and victorious progress. The expedition, nevertheless, terminated unfortunately, not only in a retreat to the town and fort of Detroit, but in the surrender of both, and of the gallant corps commanded by that officer. The causes of this painful reverse will be investigated by a military tribunal.

A distinguishing feature in the operations which preceded and followed this adverse event, is the use made by the enemy of the merciless savages under their influence. Whilst the benevolent policy of the United States invariably recommended peace, and promoted civilization among that wretched portion of the human race; and was making exertions to dissuade them from taking either side in the war, the enemy has not scrupled to call to his aid their ruthless ferocity, armed with the horrors of those instruments of carnage and torture, which are known to spare neither age nor sex. In this outrage against the laws of honourable war, and against the feelings sacred to humanity, the British commanders cannot resort to a plea of retaliation: for it is committed in the face of our example. They cannot mitigate it by calling it a self-defence against men in arms: for it embraces the most shocking butcheries of defenceless families. Nor can it be pretended that they are not answerable for the atrocities perpetrated; since the savages are employed with a knowledge, and even with menaces, that their fury could not be controuled. Such is the spectacle which the deputed authorities of a nation, boasting its religion and morality, have not been restrained from presenting to an enlightened age.

The misfortune at Detroit was not, however, without a consoling effect. It was followed by signal proofs that the national spirit rises according to the pressure on it. The loss of an important post, and of the brave men surrendered with it, inspired every where new ardour and determination. In the states and districts least remote, it was no sooner known, than every citizen was ready to fly with his arms, at once to protect his brethren against the blood-thirsty savages let loose by the enemy on an extensive frontier, and to convert a partial calamity into a source of invigorated efforts. This patriotic zeal, which it was necessary rather to limit than excite, has embodied an ample force from the states of Kentucky and Ohio, and from parts of Pennsylvania and Virginia.

It is placed, with the addition of a few regulars, under the command of brigadier-general Harrison, who possesses the entire confidence of his fellow-soldiers, among whom are citizens, some of them volunteers in the ranks, not less distinguished by their political stations, than by their personal merits. The greater portion of this force is proceeding on its destination towards the Michigan territory, having succeeded in relieving an important frontier post, and in several incidental operations against hostile tribes of savages, rendered indispensable by the subserviency into which they had been seduced by the enemy; a seduction the more cruel, as it could not fail to impose a necessity of precautionary severities against those who yielded to it.

At a recent date, an attack was made on a post of the enemy near Niagara, by a detachment of the regulars and other forces, under the command of major-general Van Rensselaer, of the militia of the state of New York. The attack, it appears, was ordered in compliance with the ardour of the troops, who executed it with distinguished gallantry, and were for a time victorious; but not receiving the expected support, they were compelled to yield to reinforcements of British regulars and savages. Our loss has been considerable, and is deeply to be lamented. That of the enemy, less ascertained, will be the more felt, as it includes, amongst the killed, the commanding general, who was also the governor of the province; and was sustained by veteran troops, from unexperienced soldiers, who must daily improve in the duties of the field.

Our expectation of gaining the command of the lakes by the invasion of Canada from Detroit having been disappointed, measures were instantly taken to provide on them a naval force superior to that of the enemy. From the talents and activity of the officer charged with this object, every thing that can be done may be expected. Should the present season not admit of complete success, the progress made will insure for the next a naval ascendancy, where it is essential to our permanent peace with, and controul over, the savages.

Among the incidents to the measures of the war, I am constrained to advert to the refusal of the governors of Massachusetts and Connecticut, to furnish the required detachments of militia towards the defence of the maritime frontier. The refusal was founded on a novel and unfortunate exposition of the provisions of the constitution, relating to the militia. The correspondences, which will be laid before you, contain the requisite information on the subject. It is obvious, that if the authority of the United

States to call into service and command the militia for the public defence can be thus frustrated, even in a state of declared war, and of course under apprehensions of invasion preceding war, they are not one nation for the purpose most of all requiring it; and that the public safety may have no other resource than in those large and permanent military establishments which are forbidden by the principle of our free government, and against the necessity of which the militia were meant to be a constitutional bulwark.

On the coasts, and on the ocean, the war has been as successful as circumstances inseparable from its early stages could promise. Our public ships and private cruisers, by their activity, and, where there was occasion, by their intrepidity, have made the enemy sensible of the difference between a reciprocity of captures, and the long confinement of them to their side. Our trade, with little exception, has safely reached our ports; having been much favoured in it, by the course pursued by a squadron of our frigates under the command of commodore Rodgers. And in the instance in which skill and bravery were more particularly tried with those of the enemy, the American flag had an auspicious triumph. The frigate Constitution, commanded by captain Hull, after a close and short engagement, completely disabled and captured a British frigate; gaining for that officer and all on board, a praise which cannot be too liberally bestowed; not merely for the victory actually achieved, but for that prompt and cool exertion of commanding talents, which, giving to courage its highest character, and to the force applied its full effect, prove that more could have been done, in a contest requiring more.

Anxious to abridge the evils from which a state of war cannot be exempt, I lost no time after it was declared, in conveying to the British government, the terms on which its progress might be arrested, without awaiting the delays of a formal and final pacification. And our charge d'affaires at London was, at the same time, authorized to agree to an armistice founded upon them. These terms required, that the orders in council should be repealed as they affected the United States, without a revival of blockades violating acknowledged rules; and that there should be an immediate discharge of American seamen from British ships, and a stop to impressment from American ships, with an understanding that an exclusion of the seamen of each nation, from the ships of the other, should be stipulated; and that the armistice should be improved into a definitive and comprehensive adjustment of depending controversies. Although a repeal of the orders, susceptible of explanations meeting the views of this government, had

taken place before this pacific advance had been communicated to that of Great Britain, the advance was declined, from an avowed repugnance to a suspension of the practice of impressments during the armistice, and without any intimation that the arrangement proposed with respect to seamen would be accepted. Whether the subsequent communications from this government, affording an occasion for re-considering the subject on the part of G. Britain, will be viewed in a more favourable light, or received in a more accommodating spirit, remains to be known. It would be unwise to relax our measures, in any respect, on a presumption of such a result.

The documents from the department of state, which relate to this subject, will give a view also of the propositions for an armistice which have been received here, one of them from the authorities at Halifax and in Canada, the other from the British government itself, through admiral Warren; and of the grounds on which neither of them could be accepted.

Our affairs with France retain the posture which they held at my last communications to you. Notwithstanding the authorized expectations of an early as well as favourable issue to the discussions on foot; these have been procrastinated to the latest date. The only intervening occurrence meriting attention, is the promulgation of a French decree, purporting to be a definitive repeal of the Berlin and Milan decrees. This proceeding, although made the ground of the repeal of the British orders in council, is rendered, by the time and manner of it, liable to many objections.

The final communications from our special minister to Denmark, afford further proofs of the good effects of his mission, and of the amicable disposition of the Danish government. From Russia we have the satisfaction to receive assurances of continued friendship, and that it will not be affected by the rupture between the United States and Great Britain. Sweden also professes sentiments favourable to the subsisting harmony.

With the Barbary powers, excepting that of Algiers, our affairs remain on the ordinary footing. The consul-general residing with that regency has suddenly and without cause been banished, together with all the American citizens found there. Whether this was the transitory effect of capricious despotism, or the first act of pre-determined hostility, is not ascertained. Precautions were taken by the consul on the latter supposition.

The Indian tribes, not under foreign instigations, remain at peace, and receive the civilizing attentions, which have proved so beneficial to them.

With a view to that vigorous prosecution of the war, to which our national faculties are adequate, the attention of congress will be particularly drawn to the insufficiency of existing provisions for filling up the military establishment. Such is the happy condition of our country, arising from the facility of subsistence and the high wages for every species of occupation, that, notwithstanding the augmented inducements provided at the last session, a partial success only has attended the recruiting service. The deficiency has been necessarily supplied during the campaign by other than regular troops, with all the inconveniences and expense incident to them. The remedy lies in establishing more favourably for the private soldier the proportion between his recompense and the term of his enlistment. And it is a subject which cannot too soon or too seriously be taken into consideration.

The same insufficiency has been experienced in the provisions for volunteers made by an act of the last session. The recompense for the service required in this case is still less attractive than in the other. And although patriotism alone has sent into the field some valuable corps of that description, those alone who can afford the sacrifice can be reasonably expected to yield to that impulse.

It will merit consideration also, whether, as auxiliary to the security of our frontiers, corps may not be advantageously organized, with a restriction of their services to particular districts convenient to them. And whether the local and occasional services of mariners and others in the seaport towns, under a similar organization, would not be a provident addition to the means of their defence.

I recommend a provision for an increase of the general officers of the army, the deficiency of which has been illustrated by the number and distance of separate commands, which the course of the war and the advantage of the service have required.

And I cannot press too strongly on the earliest attention of the legislature, the importance of the re-organization of the staff establishment; with a view to render more distinct and definite the relations and responsibilities of its several departments. That there is room for improvements which will materially promote both economy and success, in what appertains to the army and the war, is equally inculcated by the examples of other countries, and by the experience of our own.

A revision of the militia laws, for the purpose of rendering them more systematic, and better adapting them to emergencies of the war, is at this time particularly desirable.

Of the additional ships authorized to be fitted for service, two will be shortly ready to sail; a third is under repair, and delay will be avoided in the repair of the residue. Of the appropriations for the purchase of materials for ship building, the greater part has been applied to that object, and the purchase will be continued with the balance.

The enterprising spirit which has characterized our naval force, and its success both in restraining insults and depredations on our coasts, and in reprisals on the enemy, will not fail to recommend an enlargement of it.

There being reason to believe that the act prohibiting the acceptance of British licences, is not a sufficient guard against the use of them for purposes favourable to the interests and views of the enemy; further provisions on that subject are highly important. Nor is it less so, that penal enactments should be provided for cases of corrupt and perfidious intercourse of the enemy not amounting to treason, nor yet embraced by any statutory provisions.

A considerable number of American vessels, which were in England when the revocation of the orders in council took place, were laden with British manufactures, under an erroneous impression that the non-importation act would immediately cease to operate, and have arrived in the United States. It did not appear proper to exercise, on unforeseen cases of such magnitude, the ordinary powers vested in the treasury department to mitigate forfeitures, without previously affording to congress an opportunity of making on the subject such provision as they may think proper. In their decision they will doubtless equally consult what is due to equitable considerations and to the public interest.

The receipts into the treasury, during the year ending on the 30th of September last, have exceeded sixteen millions and a half of dollars: which have been sufficient to defray all the demands on the treasury to that day, including a necessary reimbursement of near three millions of the principal of the public debt. In these receipts is included a sum of near $5,850,000, received on account of the loans authorized by the acts of the last session: the whole sum actually obtained on loan amounts to eleven millions of dollars, the residue of which, being receivable subsequent to the 30th of September last, will, together with the current revenue, enable us to defray all the expenses of this year.

The duties on the late unexpected importations of British manufactures, will render the revenue of the ensuing year more productive than could have been anticipated.

The situation of our country, fellow citizens, is not without its difficulties; though it abounds in animating considerations, of which the view here presented of our pecuniary resources is an example. With more than one nation, we have serious and unsettled controversies; and with one, powerful in the means and habits of war, we are at war. The spirit and strength of the nation are nevertheless equal to the support of all its rights, and to carry it through all its trials. They can be met in that confidence. Above all, we have the inestimable consolation of knowing, that the war in which we are actually engaged is a war neither of ambition nor of vain glory; that it is waged, not in violation of the rights of others, but in the maintenance of our own; that it was preceded by a patience without example, under wrongs accumulating without end; and that it was finally not declared until every hope of averting it was extinguished, by the transfer of the British sceptre into new hands clinging to former councils; and until declarations were reiterated to the last hour, through the British envoy here, that the hostile edicts against our commercial rights and our maritime independence would not be revoked; nay, that they could not be revoked, without violating the obligations of Great Britain to other powers, as well as to her own interests. To have shrunk, under such circumstances, from manly resistance, would have been a degradation blasting our best and proudest hopes: it would have struck us from the high rank, where the virtuous struggles of our fathers had placed us, and have betrayed the magnificent legacy which we hold in trust for future generations. It would have acknowledged, that on the element which forms three-fourths of the globe we inhabit, and where all independent nations have equal and common rights, the American people were not an independent people, but colonists and vassals. It was at this moment, and with such an alternative, that war was chosen. The nation felt the necessity of it, and called for it. The appeal was accordingly made, in a just cause, to the just and all-powerful Being who holds in his hand the chain of events and the destiny of nations. It remains only, that, faithful to ourselves, entangled in no connections with the views of other powers, and ever ready to accept peace from the hand of justice, we prosecute the war with united counsels, and with the ample faculties of the nation, until peace be so obtained, and as the only means, under the divine blessing, of speedily obtaining it.

JAMES MADISON.

Washington, November 4, 1812.

Documents accompanying the Message.

Letters from Mr. Monroe to Mr. Russel, charge des affairs in Great Britain.

Extract of a letter from Mr. Monroe to Mr. Russel, dated, June 26, 1812.

This letter is committed to Mr. Foster, who has promised to deliver it to you in safety.

On the 18th of this month a declaration of war against Great Britain passed congress. I send you a copy of the act, of the President's message, and of the report of the committee of foreign relations, which brought the subject under consideration.

This measure has been produced by the continued aggressions of the British government on the rights of the United States, and the presumption arising from that and other facts, which it is unnecessary to recite, that no favourable change of policy might be expected from it. It was impossible for the United States to surrender their rights, by relinquishing the ground which they had taken, and it was equally incompatible with their interests and character to rely longer on measures which had failed to accomplish their objects. War was the only remaining alternative, and that fact being clearly ascertained, you will find by the documents transmitted that it was adopted with decision.

As war has been resorted to by necessity, and of course with reluctance, this government looks forward to the restoration of peace with much interest, and a sincere desire to promote it on conditions, just, equal, and honourable to both the parties. It is in the power of Great Britain to terminate the war on such conditions, and it would be very satisfactory to the president to meet it in arrangements to that effect.

Although there are many just and weighty causes of complaint against Great Britain, you will perceive by the documents transmitted, that the orders in council, and other blockades, illegal, according to the principles lately acknowledged, and the impressment of our seamen, are considered to be of the highest importance. If the orders in council are repealed, and no illegal blockades are substituted to them, and orders are given to discontinue the impressment of seamen from our vessels, and to restore those already impressed, there is no reason why hostilities should not immediately cease. Securing these objects, you are authorised to stipulate an armistice, to commence from the signature of the instrument providing for it, or at the end of fifty or sixty days, or other the shortest term that the British government will assent to.

Definitive arrangements will be made on these and every other difference by a treaty, to be concluded either here or at London, though it is much desired that the subject should be entered on in this city.

As an inducement to the British government to discontinue the practice of impressment from our vessels, you may give assurance that a law will be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States. There can be no doubt that such an arrangement would prove much more efficacious in securing to Great Britain her seamen, than the practice to which it is proposed to be a substitute, independent of all the other objections to it.

Indemnity for injuries received under the orders in council, and other edicts violating our rights, seems to be incident to their repeal: but the president is willing that the consideration of that claim should not be pressed at this time, so as to interfere with the preliminary arrangement alluded to. It will be proper to bring it into view merely to shew that it is expected that provision will be made for it in the treaty which is to follow. Every other interest may also be provided for at the same time.

It is hoped that the British government will find it consistent with its interest and honour, to terminate the war by an armistice in the manner and on the conditions proposed. In so doing, it will abandon no right, it will sacrifice no interest; it will abstain only from violating our rights, and in return it will restore peace with the power from whom, in friendly commercial intercourse, so many advantages will be derived, not to mention the injuries which cannot fail to result from a prosecution of the war.

Mr. Monroe to Mr. Russel.

Department of State, July 27, 1812.

Sir, I wrote you on the 26th of June, by Mr. Foster, a letter which he promised to deliver to you in person or by a safe hand.

In that letter you were informed, that the orders in council and other illegal blockades, and the impressment of our seamen by Great Britain, as you well knew before, were the principal causes of the war, and that if they were removed, you might stipulate an armistice, leaving them and all other grounds of difference, for final and more precise adjustment by treaty. As an inducement to the British government to discontinue the practice of impressment from our vessels, by which alone our seamen can be made secure, you were authorised to stipulate a prohibition by law, to be reciprocal, of the employment of British seamen in the public or

commercial service of the United States. As such an arrangement, which might be made completely effectual and satisfactory by suitable regulations and penalties, would operate almost exclusively in favour of Great Britain, for as few of our seamen ever enter voluntarily into the British service, the reciprocity would be nominal; its advantage to Great Britain would be more than an equivalent for any she derives from impressment, which alone ought to induce her to abandon the practice, if she had no other motive for it. A stipulation to prohibit by law the employment of British seamen in the service of the United States, is to be understood in the sense and spirit of our constitution. The passage of such a law must depend of course on congress, who, it might reasonably be presumed, would give effect to it.

By authorizing you to secure these objects as the grounds of an armistice, it was not intended to restrict you to any precise form in which it should be done. It is not particularly necessary that the several points should be specially provided for in the convention stipulating the armistice. A clear and distinct understanding with the British government on the subject of impressment, comprising in it the discharge of the men already impressed, and on future blockades, if the orders in council are revoked, is all that is indispensable. The orders in council being revoked, and the proposed understanding on the other points, that is, on blockades and impressment, being first obtained, in a manner, though informal, to admit of no mistake or disagreement hereafter, the instrument providing for the armistice may assume a general form, especially if more agreeable to the British government. It may for example be said in general terms, "that both powers being sincerely desirous to terminate the differences which unhappily subsist between them, and equally so, that full time should be given for the adjustment thereof, agree,

"1st. That an armistice shall take place for that purpose, to commence on the —— day of ——.

"2d. That they will forthwith appoint on each side commissioners with full power to form a treaty, which shall provide, by reciprocal arrangements, for the security of their seamen from being taken or employed in the service of the other power, for the regulation of their commerce, and all other interesting questions now depending between them.

"3d. The armistice shall not cease without a previous notice by one to the other party of —— days, and shall not be understood as having other effect than merely to suspend military operations by land and by sea."

By this you will perceive that the president is desirous of removing every obstacle to an accommodation which consists merely of form, securing in a safe and satisfactory manner the rights and interests of the U. States in these two great and essential circumstances, as it is presumed may be accomplished by the proposed understanding; he is willing that it be done in a manner the most satisfactory and honorable to Great Britain, as well as to the United States. I have the honour to be, &c.

(Signed) JAMES MONROE.

Mr. Graham to Mr. Russel.

Department of State, August 9, 1812.

Sir, The secretary left this city about ten days ago on a short visit to Virginia. Since that period Mr. Baker has, in consequence of some dispatches from his government addressed to Mr. Foster, made to me a communication respecting the intentions of his government as regards the orders in council. It was of a character, however, so entirely informal and confidential, that Mr. Baker did not feel himself at liberty to make it in the form of a note verbal or pro memoria, or even to permit me to take a memorandum of it at the time he made it. As it authorises an expectation that something more precise and definite, in an official form, may soon be received by this government, it is the less necessary that I should go into an explanation of the views of the president in relation to it, more particularly as the secretary of state is daily expected, and will be able to do it in a manner more satisfactory.

I refer you to the enclosed papers for information as to the maritime and military movements incident to the war, and will add, that the president is anxious to know as soon as possible, the result of the proposals you were authorized to make to the British government respecting an armistice. He considers them so fair and reasonable, that he cannot but hope that they will be acceded to, and thus be the means of hastening an honourable and permanent peace. I have the honour to be, &c.

(Signed) JOHN GRAHAM.

Mr. Graham to Mr. Russel.

Department of State, August 10, 1812.

Sir, Thinking that it may possibly be useful to you, I do myself the honour to enclose a memorandum of the conversation between Mr. Baker and myself, alluded to in my letter of yesterday's date. From a conversation with Mr. Baker since this memorandum

was made, I find that I was correct in representing to the president that the intimation from Mr. Foster and the British authorities at Halifax was to be understood as connected with a suspension of hostilities on the frontiers of Canada. I have the honour to be, &c. (Signed) JOHN GRAHAM.

Memorandum referred to in the above letter.

Mr. Baker verbally communicated to me for the information of the President, that he had received dispatches from his government addressed to Mr. Foster, dated (I believe) about the 17th June, from which he was authorized to say, that an official declaration would be sent to this country, that the orders in council, so far as they affected the United States, would be repealed on the first August, to be revived on the 1st May, 1813, unless the conduct of the French government and the result of the communications with the American government should be such as, in the opinion of his majesty, to render their revival unnecessary. Mr. Baker moreover stated, that the orders would be revived, provided the American government did not, within fourteen days after they received the official declaration of their repeal, admit British armed vessels into their ports, and put an end to the restrictive measures which had grown out of the orders in council.

The dispatches authorizing this communication to the American government expressly directed that it should be made verbally, and Mr. Baker did not consider himself at liberty to reduce it to writing, even in the form of a note verbal, or pro memoria, or to suffer me to take a memorandum of his communication at the time he made it. I understood from him that the dispatches had been opened by Mr. Foster at Halifax, who, in consequence of a conversation he had had with vice-admiral Sawyer and sir John Sherbroke, had authorized Mr. Baker to say, that these gentlemen would agree, as a measure leading to a suspension of hostilities, that all captures made after a day to be fixed, should not be proceeded against immediately, but be detained to await the future decision of the two governments. Mr. Foster had not seen sir George Prevost, but had written to him by express, and did not doubt but that he would agree to an arrangement for the temporary suspension of hostilities.

Mr. Baker also stated that he had received an authority from Mr. Foster to act as charge des affaires, provided the American government would receive him in that character, for the purpose of enabling him officially to communicate the declaration which was to be expected from the British government; his functions to be understood, of course, as ceasing on the renewal of hostilities. I

replied, that although, to so general and informal a communication, no answer might be necessary, and certainly no particular answer expected, yet, I was authorized to say, that the communication is received with sincere satisfaction, as it is hoped that the spirit in which it was authorized by his government may lead to such further communications as will open the way, not only for an early and satisfactory termination of existing hostilities, but to that entire adjustment of all the differences which produced them, and to that permanent peace and solid friendship which ought to be mutually desired by both countries, and which is sincerely desired by this. With this desire an authority was given to Mr. Russel on the subject of an armistice as introductory to a final pacification, as has been made known to Mr. Foster, and the same desire will be felt on the receipt of the further and more particular communications which are shortly to be expected with respect to the joint intimation from Mr. Foster and the British authorities at Halifax on the subject of suspending judicial proceedings in the case of maritime captures, to be accompanied by a suspension of military operations. The authority given to Mr. Russel just alluded to, and of which Mr. Foster was the bearer, is full proof of the solicitude of the government of the United States to bring about a general suspension of hostilities on admissible terms, with as little delay as possible. It was not to be doubted, therefore, that any other practicable expedient for attaining a similar result would readily be concurred in. Upon the most favourable consideration, however, which could be given to the expedient suggested through him, it did not appear to be reducible to any practicable shape to which the executive would be authorized to give it the necessary sanction, nor indeed is it probable that if it was less liable to insuperable difficulties, that it could have any material effect previous to the result of the pacific advance made by this government, and which must, if favourably received, become operative as soon as any other arrangement that could now be made. It was stated to Mr. Baker, that the president did not, under existing circumstances, consider Mr. Foster as vested with the power of appointing a charge des affaires; but that no difficulty, in point of form, would be made, as any authentic communication through him, or any other channel, would be received with attention and respect.

The Secretary of State to Mr. Russel.

Department of State, August 21, 1812.

[*Extract*] My last letter to you was of the 27th July, and was forwarded by the British packet, the Althea, under the special

protection of Mr. Baker. The object of that letter, and of the next preceding one, of the 26th of June, was to invest you with power to suspend by an armistice, on such fair conditions as it was presumed could not be rejected, the operation of the war, which had been brought on the United States by the injustice and violence of the British government. At the moment of the declaration of war, the President regretting the necessity which produced it, looked to its termination and provided for it, and happy will it be for both countries, if the disposition felt, and the advance thus made on his part, are entertained and met by the British government in a similar spirit.

You have been informed by Mr. Graham of what passed in my late absence from the city, in an interview between Mr. Baker and him, in consequence of a dispatch from the British government to Mr. Foster, received at Halifax, just before he sailed for England, and transmitted by him to Mr. Baker, relating to a proposed suspension or repeal of the British orders in council. You will have seen by the note forwarded to you by Mr. Graham, of Mr. Baker's communication to him, that Mr. Foster had authorized him to state, that the commanders of the British forces at Halifax would agree to a suspension, after a day to be fixed, of the condemnation of prizes, to await the decision of both governments, without, however, preventing captures on either side. It appears also that Mr. Foster had promised to communicate with sir George Prevost, and to advise him to propose to our government an armistice.

Sir George Prevost has since proposed to general Dearborn, at the suggestion of Mr. Foster, a suspension of offensive operations by land, in a letter which was transmitted by the general to the secretary at war. A provisional agreement was entered into between general Dearborn and col. Baynes, the British adjutant-general, bearer of gen. Prevost's letter, that neither party should act offensively, before the decision of our government should be taken on the subject.

Since my return to Washington, the document alluded to in Mr. Foster's dispatch, as finally decided on by the British government, has been handed to me by Mr. Baker, with a remark, that its authenticity might be relied on. Mr. Baker added, that it was not improbable that the admiral at Halifax might agree likewise to a suspension of captures, though he did not profess or appear to be acquainted with his sentiments on that point.

On full consideration of all the circumstances which merit attention, the president regrets that it is not in his power to accede

to the proposed arrangement. The following are among the principal reasons which have produced this decision.

1st. The president has no power to suspend judicial proceedings on prizes. A capture, if lawful, vests a right, over which he has no controul. Nor could he prevent captures otherwise than by an indiscriminate recal of the commissions granted to our privateers, which he could not justify under existing circumstances.

2d. The proposition is not made by the British government, nor is there any certainty that it would be approved by it. The proposed arrangement, if acceded to, might not be observed by the British officers themselves, if their government, in consequence of the war, should give them instructions of a different character, even if they were given without a knowledge of the arrangement.

3d. No security is given, or proposed, as to the Indians, nor could any be relied on. They have engaged in the war on the side of the British government, and are now prosecuting it with vigour, in their usual savage mode. They can only be restrained by force, when once let loose, and that force has already been ordered out for the purpose.

4th. The proposition is not reciprocal, because it restrains the United States from acting where their power is greatest, and leaves Great Britain at liberty, and gives her time to augment her forces in our neighbourhood.

5th. That as a principal object of the war is to obtain redress against the British practice of impressment, an agreement to suspend hostilities, even before the British government is heard from on that subject, might be considered a relinquishment of that claim.

6th. It is the more objectionable, and of the less importance, in consideration of the instructions heretofore given you, which, if met by the British government, may have already produced the same result in a greater extent and more satisfactory form.

I might add, that the declaration itself is objectionable in many respects, particularly the following.

1st. Because it asserts a right in the British government to restore the orders in council, or any part thereof, to their full effect, on a principle of retaliation on France, under circumstances of which she alone is to judge; a right which this government cannot admit, especially in the extent heretofore claimed, and acted on by the British government.

2d. That the repeal is founded exclusively on the French decree of the 28th of April, 1811, by which the repeal of the decrees of Berlin and Milan, announced on the 5th of August, 1810, to take

effect on the first of November, of that year, at which time their operation actually ceased, is disregarded, as are the claims of the United States arising from the repeal on that day, even according to the British pledge.

3d. That even if the United States had no right to claim the repeal of the British orders in council prior to the French decree of the 28th of April, 1811, nor before the notification of that decree to the British government on the 20th of May, of the present year, the British repeal ought to have borne date from that day, and been subject to none of the limitations attached to it.

These remarks on the declaration of the prince regent, which are not pursued with rigour, nor in the full extent which they might be, are applicable to it, in relation to the state of things which existed before the determination of the United States to resist the aggressions of the British government by war. By that determination the relations between the two countries have been altogether changed, and it is only by a termination of the war, or by measures leading to it, by consent of both governments, that its calamities can be closed or mitigated. It is not now a question whether the declaration of the Prince Regent is such as ought to have produced a repeal of the non-importation act, had war not been declared, because, by the declaration of war, that question is superceded, and the non-importation act having been continued in force by congress, and become a measure of war, and among the most efficient, it is no longer subject to the controul of the executive in the sense and for the purpose for which it was adopted.

The declaration, however, of the prince regent will not be without effect. By repealing the orders in council without reviving the blockade of May, 1806, or any other illegal blockade, as is understood to be the case, it removes a great obstacle to an accommodation. The president considers it an indication of a disposition in the British government to accommodate the differences which subsist between the countries, and I am instructed to assure you, that, if such disposition really exists, and is persevered in, and is extended to other objects, especially the important one of impressment, a durable and happy peace and reconciliation cannot fail to result from it.

Mr. Russell to the Secretary of State, inclosing a correspondence with Lord Castlereagh, on the subject of an armistice.

Mr. Russell to Mr. Monroe.

London, 1*st Sept.* 1812.

Sir, You will perceive by the enclosed copies of notes which have passed between Lord Castlereagh and me, that the moderate and equitable terms proposed for a suspension of hostilities, have been rejected, and that it is my intention to return immediately to the United States.

My continuance here, after it has been so broadly intimated to me by his lordship, that I am no longer acknowledged in my diplomatic capacity, and after a knowledge that instructions are given to the British admiral to negociate an arrangement on the other side of the Atlantic, would, in my view of the subject, not only be useless, but improper.

It is probable, however, that the vessel in which I propose to embark, will not take her departure before the 15th or 20th of this month.

I have the honour to be, with great consideration, sir, your most obedient servant,

To the hon. James Monroe, &c. JONA. RUSSELL.

Mr. Russell to Lord Castlereagh.

London, August 24, 1812.

My lord, It is only necessary, I trust, to call the attention of your lordship to a review of the conduct of the government of the United States, to prove incontrovertibly its unceasing anxiety to maintain the relations of peace and friendship with Great Britain. Its patience, in suffering the many wrongs which it has received, and its perseverance, in endeavouring, by amicable means, to obtain redress, are known to the world. Despairing, at length, of receiving this redress from the justice of the British government, to which it had so often applied in vain, and feeling that a further forbearance would be a virtual surrender of interests and rights, essential to the prosperity and independence of the nation confided to its protection, it has been compelled to discharge its high duty, by an appeal to arms.

While, however, it regards this course as the only one which remained for it to pursue, with a hope of preserving any portion of that kind of character, which constitutes the vital strength of every nation, yet it is still willing to give another proof of the spirit which has uniformly distinguished its proceedings, by seek-

ing to arrest, on terms consistent with justice and honour, the calamities of war. It has, therefore, authorized me to stipulate, with his Britannic majesty's government, an armistice, to commence at or before the expiration of sixty days after the signature of the instrument providing for it, on condition that the orders in council be repealed, and no illegal blockades be substituted to them, and that orders be immediately given to discontinue the impressment of persons from American vessels, and to restore the citizens of the United States already impressed: it being, moreover, well understood, that the British government will assent to enter into definitive arrangements, as soon as may be, on these and every other difference, by a treaty, to be concluded either at London or Washington, as, on an impartial consideration of existing circumstances, shall be deemed most expedient.

As an inducement to Great Britain to discontinue the practice of impressment from American vessels, I am authorized to give assurance, that a law shall be passed (to be reciprocal) to prohibit the employment of British seamen, in the public or commercial service of the United States.

It is sincerely believed, that such an arrangement would prove more efficacious, in securing to Great Britain her seamen, than the practice of impressment, so derogatory to the sovereign attributes of the United States, and so incompatible with the personal rights of their citizens.

Your lordship will not be surprised that I have presented the revocation of the orders in council, as a preliminary to the suspension of hostilities, when it is considered, that the act of the British government, of the 23d of June last, ordaining that revocation, is predicated on conditions, the performance of which is rendered impracticable, by the change which is since known to have occurred, in the relations between the two countries. It cannot now be expected that the government of the United States will, immediately on due notice of that act, revoke, or cause to be revoked, its acts, excluding from the waters and harbours of the United States all British armed vessels, and interdicting commercial intercourse with Great Britain. Such a procedure would necessarily involve consequences too unreasonable and extravagant to be, for a moment, presumed. The order in council, of the 23d of June last, will, therefore, according to its own terms, be null and of no effect, and a new act of the British government, adapted to existing circumstances, is obviously required, for the effectual repeal of the orders in council, of which the United States complain.

The government of the United States considers indemnity for injuries received, under the orders in council, and other edicts violating the rights of the American nation, to be incident to their repeal, and it believes that satisfactory provision will be made, in the definitive treaty to be hereafter negociated, for this purpose.

The conditions now offered to the British government, for the termination of the war, by an armistice, as above stated, are so moderate and just in themselves, and so entirely consistent with its interest and honour, that a confident hope is indulged, that it will not hesitate to accept them. In so doing it will abandon no right; it will sacrifice no interest; it will abstain only from violating the rights of the United States, and, in return, it will restore peace with the power from whom, in a friendly commercial intercourse, so many advantages are to be derived.

Your lordship is, undoubtedly, aware of the serious difficulties with which a prosecution of the war, even for a short period, must necessarily embarrass all future attempts at accommodation. Passions, exasperated by injuries—alliances or conquests, on terms which forbid their abandonment—will inevitably hereafter embitter and protract a contest which might now be so easily and happily terminated.

Deeply impressed with these truths, I cannot but persuade myself, that his royal highness, the prince regent, will take into his early consideration the propositions herein made, on behalf of the United States, and decide on them in a spirit of conciliation and justice.

I have the honour to be, with high consideration, my lord, your lordship's most obedient servant, JONA. RUSSELL.

To the right hon. lord viscount Castlereagh, &c.

Lord Castlereagh to Mr. Russell.

Foreign Office, August 29.

Sir, Although the diplomatic relations between the two governments have been terminated by a declaration of war on the part of the United States, I have not hesitated, under the peculiar circumstances of the case, and the authority under which you act, to submit to the prince regent the proposition, contained in your letter of the 24th instant, for a suspension of hostilities.

From the period at which your instructions must have been issued, it is obvious that this overture was determined upon by the government of the United States, in ignorance of the order in council of the 23d of June last, and, as you inform me that you are not at liberty to depart from the conditions set forth in your

letter, it only remains for me to acquaint you, that the prince regent feels himself under the necessity of declining to accede to the proposition therein contained, as being, on various grounds, absolutely inadmissible.

As soon as there was reason to apprehend that Mr. Foster's functions might have ceased in America, and that he might have been obliged to withdraw himself, in consequence of war being declared, from the United States, before the above-mentioned order of the 23d of June, and the instructions consequent thereupon could have reached him, measures were taken for authorizing the British admiral on the American station, to propose to the government of the United States, an immediate and reciprocal revocation of all hostile orders, with the tender of giving full effect, in the event of hostilities being discontinued, to the provisions of the said order, upon the conditions therein specified.

From this statement you will perceive that the view you have taken of this part of the subject is incorrect; and that, in the present state of the relations between the two countries, the operation of the order of the 23d of June, can only be defeated by a refusal, on the part of your government, to desist from hostilities, or to comply with the conditions expressed in the said order.

Under the circumstances of your having no powers to negociate, I must decline entering into a detailed discussion of the propositions which you have been directed to bring forward.

I cannot, however, refrain, on one single point, from expressing my surprise; namely, that, as a condition preliminary even to a suspension of hostilities, the government of the United States should have thought fit to demand, that the British government should desist from its ancient and accustomed practice of impressing British seamen from the merchant ships of a foreign state, simply on the assurance that a law shall hereafter be passed to prohibit the employment of British seamen in the public or commercial service of that state.

The British government, now, as heretofore, is ready to receive from the government of the United States, and amicably to discuss, any proposition which professes to have in view either to check abuse in the exercise of the practice of impressment, or to accomplish, by means less liable to vexation, the object for which impressment has hitherto been found necessary; but they cannot consent to suspend the exercise of a right upon which the naval strength of the empire mainly depends, until they are fully convinced that means can be devised, and will be adopted, by which

the object to be obtained by the exercise of that right, can be effectually secured.

I have the honour to be, sir, your most obedient humble servant,

J. Russell, esq. &c. CASTLEREAGH.

Mr. Russell to Lord Castlereagh.

18, *Bentinck-street*, 1*st September*, 1812.

My lord, I have learnt, with much regret, by your lordship's note, dated the 29th ult. which I did not receive until this morning, that the prince regent has thought proper to decline to accede to the proposition for a suspension of hostilities, contained in my note of the 24th of August.

It has been matter of surprise to me, that my view, with regard to the revocation of the orders in council on the 23d of June last, should have been considered to have been incorrect, when it appears, by your lordship's note, that the British government itself has deemed it necessary to give powers to the British admiral to stipulate for its full effect, and thereby admitted that a new act was required for that purpose.

It now only remains for me to announce to your lordship, that it is my intention to embark immediately at Plymouth, on board the ship Lark, for the United States, and to request that permission may be granted, as soon as may be, for the embarkation of my servants, baggage, and the effects of this legation, and that the necessary passports may be furnished for my own and their safe conduct to that destination.

I avail myself of this occasion to apprise your lordship, that I am authorized by the government of the United States to leave Reuben Gaunt Beasley, esq. as its agent for prisoners of war in this country, and to desire that every necessary facility may be afforded him in the exercise of that trust, by the British government.

I have the honor to be, my lord, your lordship's most obedient humble servant, JONA. RUSSELL.

The right hon. lord viscount Castlereagh, &c.

Mr. Russell to Mr. Monroe.

London, *Sept.* 3, 1812.

Sir, I enclose herein a copy of a note, received yesterday from lord Castlereagh, which will acquaint you that I have obtained my passports to return to the United States, and that Mr. Beasley is permitted to remain here as agent for prisoners of war.

Immediately on demanding my passports, I addressed to the consuls a circular, of which you will also find a copy enclosed.

The Swiftsure packet sailed on the 31st of last month from Falmouth for America, and it is very probable that she takes out instructions, suggested by the overture made here, but there is no reason to believe that they can be of a nature to satisfy the United States.

I have the honour to be, with great consideration, your faithful and obedient servant,

The hon. James Monroe, &c. JONA. RUSSELL.

Lord Castlereagh to Mr. Russell.

Foreign Office, September 2, 1812.

Sir, I have laid before his royal highness, the prince regent, your letter of the 1st instant, in which you announce your intention to embark immediately, at Plymouth, on board the ship Lark, for the United States.

I have already had the honour of forwarding to you an admiralty order for protection of that ship, as a cartel, on her voyage to America, and I herewith enclose to you a passport, for the free embarkation of yourself and family, in conformity to your request. The lords commissioners of his majesty's treasury will issue directions to the commissioners of the customs, to give every facility to the embarkation of your effects.

If, previous to your departure from England, you can point out to me any particular manner in which I can facilitate your arrangements, I beg that you will command my services.

His royal highness has commanded me to signify to you, for the information of your government, that there will be no difficulty in allowing Mr. Reuben Gaunt Beasley, as stated in your letter, to reside in this country, as the United States agent for prisoners of war.

I have the honour to subscribe myself, with great truth and consideration, sir, your most obedient humble servant,

J. Russell, esq. &c. CASTLEREAGH.

Correspondence between sir J. B. Warren and the Secretary of State.

Halifax, Nova Scotia, Sept. 30, 1812.

Sir, The departure of Mr. Foster from America, has devolved upon me the charge of making known to you, for the information of the government of the United States, the sentiments entertained

by his royal highness the prince regent, upon the existing relations of the two countries.

You will observe, from the enclosed copy of an order in council, bearing date the 23d of June, 1812, that the orders in council of the 7th of January, 1807, and the 26th of April, 1809, ceased to exist nearly at the same time that the government of the United States declared war against his majesty.

Immediately on the receipt of this declaration in London, the order in council, of which a copy is herewith enclosed to you, was issued on the 31st day of July, for the embargo and detention of all American ships.

Under these circumstances, I am commanded to propose to your government the immediate cessation of hostilities between the two countries, and I shall be most happy to be the instrument of bringing about a reconciliation, so interesting and beneficial to America and Great Britain.

I therefore propose to you, that the government of the United States of America shall instantly recall their letters of marque and reprisal against British ships, together with all orders and instructions for any acts of hostility whatever against the territories of his majesty or the persons or property of his subjects; with the understanding, that, immediately on my receiving from you an official assurance to that effect, I shall instruct all the officers under my command to desist from corresponding measures of war, against the ships and property of the United States, and that I shall transmit without delay, corresponding intelligence to the several parts of the world where hostilities may have commenced. The British commanders in which, will be required to discontinue hostilities from the receipt of such notice.

Should the American government accede to the above proposal for terminating hostilities, I am authorised to arrange with you as to the revocation of the laws which interdict the commerce and ships of war of Great Britain from the harbours and waters of the United States; in default of which revocation within such reasonable periods as may be agreed upon, you will observe by the order of the 23d June, the orders in council of January, 1807, and April, 1809, are to be revived.

The officer who conveys this letter to the American coast has received my orders to put to sea immediately upon the delivery of this dispatch to the competent authority; and I earnestly recommend that no time may be lost in communicating to me the decision of your government, persuaded as I feel that it cannot but be of a nature to lead to a speedy termination of the present differences.

The flag of truce which you may charge with your reply will find one of my cruisers at Sandy Hook, ten days after the landing of this dispatch, which I have directed to call there with a flag of truce for that purpose.

I have the honor to be, with the highest consideration, sir, your most obedient and most faithful humble servant,

JOHN BORLASE WARREN,
Admiral of the Blue, and Commander in Chief, &c.

Mr. Monroe to Sir J. B. Warren.

Department of State, Oct. 27, 1812.

Sir, I have had the honour to receive your letter of the 30th ult. and to submit it to the consideration of the president.

It appears that you are authorized to propose a cessation of hostilities between the United States and Great Britain, on the ground of the repeal of the orders in council, and, in case the proposition is acceded to, to take measures in concert with this government, to carry it into complete effect on both sides.

You state, also, that you have it in charge, in that event, to enter into an arrangement with the government of the U. States for the repeal of the laws which interdict the ships of war and the commerce of Great Britain from the harbours and waters of the U. States. And you intimate, that if the proposition is not acceded to, the orders in council (repealed conditionally by that of the 23d of June last) will be revived against the commerce of the United States.

I am instructed to inform you, that it will be very satisfactory to the president to meet the British government in such arrangements as may terminate without delay the hostilities which now exist between the United States and Great Britain, on conditions honourable to both nations.

At the moment of the declaration of war, the president gave a signal proof of the attachment of the United States to peace. Instructions were given at that early period to the late charge des affaires of the United States at London, to propose to the British government an armistice, on conditions which it was presumed would have been satisfactory. It has been seen with regret that the proposition made by Mr. Russell, particularly in regard to the important interest of impressment, was rejected, and that none was offered through that channel, as a basis on which hostilities might cease.

As your government has authorized you to propose a cessation of hostilities, and is doubtless aware of the important and salutary effect which a satisfactory adjustment of this difference cannot fail to have on the future relations between the two coun-

tries, I indulge the hope that it has, ere this, given you full power for the purpose. Experience has evinced that no peace can be durable unless this object is provided for. It is presumed, therefore, that it is equally the interest of both countries to adjust it at this time.

Without further discussing questions of right, the president is desirous to provide a remedy for the evils complained of on both sides. The claim of the British government is to take from the merchant vessels of other countries, British subjects. In the practice, the commanders of British ships of war often take from the merchant vessels of the U. States, American citizens. If the United States prohibit the employment of British subjects in their service, and enforce the prohibition by suitable regulations and penalties, the motive for the practice is taken away. It is in this mode that the president is willing to accommodate this important controversy with the British government, and it cannot be conceived on what ground the arrangement can be refused.

A suspension of the practice of impressment, pending the armistice, seems to be a necessary consequence. It cannot be presumed, while the parties are engaged in a negociation to adjust amicably this important difference, that the United States would admit the right or acquiesce in the practice of the opposite party; or that Great Britain would be unwilling to restrain her cruizers from a practice which would have the strongest tendency to defeat the negociation. It is presumable that both parties would enter into the negociation with a sincere desire to give it effect. For this purpose it is necessary that a clear and distinct understanding be first obtained between them, of the accommodation which each is prepared to make. If the British government is willing to suspend the practice of impressment from American vessels, on consideration that the United States will exclude British seamen from their service, the regulations by which this compromise should be carried into effect would be solely the object of negociation. The armistice would be of short duration. If the parties agreed, peace would be the result. If the negociation failed, each would be restored to its former state, and to all its pretensions, by recurring to war.

Lord Castlereagh, in his note to Mr. Russell, seems to have supposed, that, had the British government accepted the proposition made to it, Great Britain would have suspended immediately the exercise of a right, on the mere assurance of this government that a law would be afterwards passed to prohibit the employment of British seamen in the service of the United States, and that Great Britain would have no agency in the regu-

lations to give effect to that prohibition. Such an idea was not in the contemplation of this government, nor is it to be reasonably inferred from Mr. Russell's note; lest, however, by possibility such an inference might be drawn from the instructions to Mr. Russell, and anxious that there should be no misunderstanding in the case, subsequent instructions were given to Mr. Russell, with a view to obviate every objection of the kind alluded to. As they bear date on the 27th July, and were forwarded by the British packet Althea, it is more than probable that they may have been received and acted on.

I am happy to explain to you thus fully the views of my government on this important subject. The president desires that the war which exists between our countries should be terminated on such conditions as may secure a solid and durable peace. To accomplish this great object it is necessary that the interest of impressment be satisfactorily arranged. He is willing that Great Britain should be secured against the evils of which she complains. He seeks on the other hand that the citizens of the United States should be protected against a practice which, while it degrades the nation, deprives them of their rights as freemen, takes them by force from their families and their country into a foreign service, to fight the battles of a foreign power, perhaps against their own kindred and country.

I abstain from entering, in this communication, into other grounds of difference. The orders in council having been repealed (with a reservation not impairing a corresponding right on the part of the United States), and no illegal blockades revived or instituted in their stead, and an understanding being obtained on the subject of impressment, in the mode herein proposed, the president is willing to agree to a cessation of hostilities, with a view to arrange by treaty, in a more distinct and ample manner, and to the satisfaction of both parties, every other subject of controversy.

I will only add that if there be no objection to an accommodation of the difference relating to impressment, in the mode proposed, other than the suspension of the British claim to impressment during the armistice, there can be none to proceeding without the armistice to an immediate discussion and arrangement of an article on that subject. This great question being satisfactorily adjusted, the way will be open for an armistice, or any other course leading most conveniently and expeditiously to a general pacification.

I have the honour, &c.

JAMES MONROE.

Letter from Mr. Russell to the Secretary of State, inclosing a correspondence with Lord Castlereagh, on the subject of the repeal of the orders in council.

Mr. Russell to Mr. Monroe.

London, 25th May, 1812.

Sir, I have the honour to hand you herein a copy of my note of the 20th of this month, communicating to lord Castlereagh a decree of the French government, dated the 28th of February, 1811, and of two letters of the French ministers of the 25th of December, 1810. I also send you copies of that decree, and of a note from his lordship acknowledging the receipt of my communication, and engaging to submit the documents above mentioned to his royal highness the prince regent. I have the honour, &c. JONA. RUSSELL.

The honourable James Monroe, &c.

Mr. Russell to Lord Castlereagh.

The undersigned, charge d'affaires of the United States of America, has the honour to transmit to lord Castlereagh authentic copies of a decree purporting to be passed by the emperor of the French on the 28th of April, 1811, of a letter addressed by the French minister of finance to the director general of the customs on the 28th December, 1810, and of another letter of the same date from the French minister of justice to the president of the council of prizes.

As these acts explicitly recognize the revocation of the Berlin and Milan decrees, in relation to the United States, and distinctly make this revocation to take effect from the 1st November, 1810, the undersigned cannot but persuade himself that they will, in the official and authentic form in which they are now presented to his Britannic majesty's government, remove all doubt with respect to the revocation in question, and, joined with all the powerful considerations of justice and expediency, so often suggested, lead to a like repeal of the British orders in council, and thereby to a renewal of that perfect amity and unrestricted intercourse between this country and the United States, which the obvious interests of both nations require. The undersigned avails himself, &c.

18, *Bentinck-st. 20th May*, 1812. JONA. RUSSELL.

[TRANSLATION.] *Palace of St. Cloud, 28th April*, 1811.

Napoleon, Emperor of the French, &c.

On the report of our minister of foreign relations:

Seeing by a law passed on the 2d March, 1811, the congress of the United States has ordered the execution of the provi-

sions of the act of non-intercourse which prohibits the vessels and merchandise of Great Britain, her colonies and dependencies, from entering into the ports of the United States.

Considering that the said law is an act of resistance to the arbitrary pretensions consecrated by the British orders in council, and a formal refusal to adhere to a system invading the independence of neutral powers and of their flag; we have ordered and do decree as follows:

The decrees of Berlin and Milan are definitively, and to date from 1st November last, considered as not existing in regard to American vessels. NAPOLEON.

By the emperor, the minister secretary of state.

THE COUNT DARA.

Lord Castlereagh to Mr. Russell.

Foreign Office, May 23, 1812.

Lord Castlereagh presents his compliments to Mr. Russell, and has the honour to acknowledge the receipt of his official note of 20th instant, transmitting copies of two official letters of the French ministers, and of a decree of the French government, bearing date the 28th of April, 1811. Lord Castlereagh will immediately lay these documents before his royal highness the prince regent, and avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

Jonathan Russell, Esq., &c.

Mr. Russell to the Secretary of State.

London, 26th June, 1812.

Sir, I have the honour to hand to you herein, an order of council of the 23d of this month, revoking the orders in council of the 7th of January, 1807, and of the 26th of April, 1809.

To this decree I have added copies of two notes of the same date from lord Castlereagh, accompanying the communication of it to me, and also a copy of my answer.

With great respect and consideration, I am, &c.

JONA. RUSSELL.

At the court at Carlton House the 23d of June, 1812, *present his Royal Highness the Prince Regent, in Council.*

Whereas his royal highness, the prince regent, was pleased to declare, in the name and on the behalf of his majesty, on the 21st day of April, 1812, "that if at any time hereafter the Berlin and Milan decrees shall, by some authentic act of the French government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the order

in council of the 7th of January 1807, and the order in council of the 26th of April, 1809, shall, without any further order, be, and the same are hereby declared from thenceforth to be wholly and absolutely revoked."

And whereas the charge des affaires of the United States of America, resident at this court, did, on the 20th day of May last, transmit to lord viscount Castlereagh, one of his majesty's principal secretaries of state, a copy of a certain instrument then for the first time communicated to this court, purporting to be a decree passed by the government of France on the 28th day of April, 1811, by which the decrees of Berlin and Milan are declared to be definitively no longer in force in regard to American vessels.

And whereas his royal highness, the prince regent, although he cannot consider the tenor of the said instrument as satisfying the conditions set forth in the said order of the 21st day of April last, upon which the said orders were to cease and determine, is nevertheless disposed on his part to take such measures as may tend to re-establish the intercourse between neutral and belligerent nations upon its accustomed principles. His royal highness the prince regent, in the name and on the behalf of his majesty, is therefore pleased, by and with the advice of his majesty's privy council, to order and declare, and it is hereby ordered and declared, that the order in council bearing date the 7th day of January, 1807, and the order in council bearing date the 26th day of April, 1809, be revoked, so far as may regard American vessels, and their cargoes being American property, from the 1st day of August next.

But whereas by certain acts of the government of the United States of America, all British armed vessels are excluded from the harbours and waters of the said United States, the armed vessels of France being permitted to enter therein, and the commercial intercourse between Great Britain and the said United States is interdicted, the commercial intercourse between France and the said United States having been restored, his royal highness the prince regent is pleased hereby further to declare, in the name and on the behalf of his majesty, that if the government of the said United States shall not, as soon as may be, after this order shall have been duly notified by his majesty's minister in America to the said government, revoke or cause to be revoked the said acts, this present order shall in that case, after due notice signified by his majesty's minister in America to the said government, be thenceforth null and of no effect.

It is further ordered and declared, that all American vessels, and their cargoes being American property, that shall have

been captured subsequently to the 20th of May last, for a breach of the aforesaid orders in council alone, and which shall not have been actually condemned before the date of this order, and that all ships and cargoes as aforesaid, that shall henceforth be captured under the said orders prior to the first day of August next, shall not be proceeded against to condemnation till further orders; but shall, in the event of this order not becoming null and of no effect, in the case aforesaid, be forthwith liberated and restored, subject to such reasonable expenses on the part of the captors as shall have been justly incurred.

Provided that nothing in this order contained, respecting the revocation of the orders herein mentioned, shall be taken to revive wholly or in part, the orders in council of the 11th of November, 1807, or any other order not herein mentioned, or to deprive parties of any legal remedy to which they may be entitled under the order in council of the 21st April, 1812.

His royal highness is hereby pleased further to declare, in the name and on the behalf of his majesty, that nothing in this present order contained, shall be understood to preclude his royal highness the prince regent, if circumstances shall so require, from restoring, after reasonable notice, the orders of the 7th of January, 1807, and 26th of April, 1809, or any part thereof, to their full effect, or from taking such other measures of retaliation against the enemy as may appear to his royal highness to be just and necessary.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judge of the high court of admiralty, and the judges of the courts of vice admiralty, are to take the necessary measures herein, as to them may respectively appertain. JAMES BULLER.

Lord Castlereagh to Mr. Russell.

Foreign Office, June 23, 1812.

Sir, I am commanded by the prince regent to transmit to you for your information, the enclosed printed copy of an order in council which his royal highness, acting in the name and on the behalf of his majesty, was this day pleased to issue, for the revocation (on the conditions therein specified) of the orders in council of the 7th January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st August next.

I have the honour to be, &c. CASTLEREAGH.

Lord Castlereagh to Mr. Russell.

Foreign Office, June 23, 1812.

Sir, in communicating to your government the order in council of this date, revoking (under certain conditions therein specified) those of January 7th, and of April 26th, 1809, I am to request that you will at the same time acquaint them, that the prince regent's ministers have taken the earliest opportunity, after the resumption of the government, to advise his royal highness to the adoption of a measure grounded upon the document communicated by you to this office on the 20th ultimo; and his royal highness hopes that this proceeding, on the part of the British government, may accelerate a good understanding on all points of difference between the two states.

I shall be happy to have the honour of seeing you at the foreign office at 2 o'clock to-morrow; and beg to apprize you that one of his majesty's vessels will sail for America with the dispatches of the government in the course of the present week.

I have the honour to be, &c. CASTLEREAGH.

Mr. Russell to Lord Castlereagh.

18, *Bentinck-st. June* 26, 1812.

My lord, I have the honour to acknowledge the receipt of the two notes addressed to me by your lordship on the 23d of this month, inclosing an order in council, issued that day by his royal highness the prince regent, acting in the name and on the behalf of his Britannic majesty, for the revocation (on the conditions therein specified) of the orders in council of the 7th of January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the first of August next.

In communicating this document to my government, I shall, with much satisfaction, accompany it with the hopes which you state to be entertained by his royal highness the prince regent, that it may accelerate a good understanding on all points of difference between the two states. I am the more encouraged to believe that these hopes will not be disappointed, from the assurance which your lordship was pleased to give me, in the conversation of this morning, that, in the opinion of your lordship, the blockade of the 16th of May, 1806, had been merged in the orders in council, now revoked, and extinguished with them; and that no condition contained in the order of the 23d instant, is to be interpreted to restrain the government of the United States from the exercise of its right to exclude British armed vessels from the harbours and waters of the United States, whenever there shall be special and sufficient cause for

so doing, or whenever such exclusion shall, from a general policy, be extended to the armed vessels of the enemies of Great Britain. This assurance I am happy to consider as evidence of a conciliatory spirit, which will afford on every other point of difference an explanation equally frank and satisfactory.

I am, my lord, with great consideration, &c.

JONA. RUSSELL.

Mr. Russell to the Secretary of State.

London, 2d July, 1812.

Sir, I avail myself of the opportunity afforded by the British packet, to transmit to you a copy of a note from lord Castlereagh, of the 29th ultimo, which I trust will put at rest the blockade of 1806.

I acknowledged the receipt of this note, as you will observe by the inclosed copy of my reply, without a comment.

I did not think it useful to enter into a discussion at this moment concerning the legality of that blockade, which, as no new doctrine appears to be assumed, is made to depend on the fact, the application of an adequate force.

In like manner I have forborne to notice his lordship's observations concerning the exclusion, from our ports, of British vessels of war. As such exclusion is required to accord with the obligations of strict neutrality only, the conduct and character of the government of the United States furnish security against any question arising on that subject.

I have the honour to be, &c. JONA. RUSSELL.

Lord Castlereagh to Mr. Russell.

Foreign Office, June 29, 1812.

Lord Castlereagh has the honour to acknowledge the receipt of Mr. Russell's communication of the 26th instant.

That no mistake may prevail upon the explanation given in conversation by lord Castlereagh to Mr. Russell, on the two points referred to in Mr. Russell's letter, lord Castlereagh begs leave to re-state to Mr. Russell, with respect to the blockade of May, 1806, that, in point of fact, this particular blockade has been discontinued for a length of time; the general retaliatory blockade of the enemy's ports, established under the orders in council, of November, 1807, having rendered the enforcement of it by his majesty's ships of war no longer necessary; and that his majesty's government have no intention of recurring to this or to any other blockades of the enemy's ports, founded upon the ordinary and accustomed principles of maritime law, which

were in force previous to the order in council, without a new notice to neutral powers in the usual forms.

With respect to the provision of the order of the 23d instant, which refers to the admission of British ships of war into the harbours and waters of the United States, lord Castlereagh informs Mr. Russell, that this claim is made in consequence of his majesty's ships being now excluded, whilst those of the enemy are admitted. It is the partial admission of one of the belligerents of which Great Britain feels herself entitled to complain, as a preference in favour of the enemy, incompatible with the obligations of strict neutrality. Were the exclusion general, the British government would consider such a measure, on the part of America, as matter of discussion between the two states, but not as an act of partiality of which they had in the first instance a right to complain.

Lord Castlereagh avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

Mr. Russell to Lord Castlereagh.

18, *Bentinck street*, 1*st July*, 1812.

Mr. Russell has the honour to acknowledge the receipt of the note of lord Castlereagh, dated the 29th ultimo, containing explanations relative to the two points referred to in Mr. Russell's note of the 26th of that month, and will take the earliest opportunity of communicating it to his government.

Mr. Russell begs leave to avail himself of this occasion to repeat to lord Castlereagh the assurances of his high consideration.

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Mr. Erving to the Secretary of State, inclosing a correspondence with the Danish Minister of Foreign Affairs.

No. 16.

Mr. Erving to Mr. Monroe, Secretary of State.

Copenhagen, April 12*th*, 1812.

Sir, my last dispatch upon general business was No. 12. I therein mentioned the case of the "Jane Maria," which had been cut out of the port of Swinemunde by a French privateer. Subsequent to the date of that dispatch the captain arrived, but in the intermediate time a Frenchman had been put on board as a guard, and this became an obstacle to her departure. My correspondence with Mr. de Rosenkrantz on this affair is herewith submitted, viz. No. 1, December 10th; No. 2, January 11th; No. 3, January 15th; No. 4, January 15th; No. 5, January 16th, of the inclosures. I understand that one of the crew of the "Jane Maria" has appeared before a notary, and

sworn that whilst the vessel lay at Swinemunde she had communication with the English, and was to have gone under their convoy. Should this declaration prove to be correct, yet I presume that she cannot therefore be condemned. The French minister does not however find himself authorized to release her, but he momentarily expects orders from his government on the subject. The papers of the vessel are in my possession.

In my dispatch No. 10, I mentioned that of the cases which were pending on my arrival in Copenhagen, the "Minerva Smith," Mann, only remained to be adjudged, and that I had sought to delay it for the purpose of procuring, and in the hope of introducing before the tribunal, some further evidence. A part of the evidence to which I referred was soon afterwards received from England, and laid before the minister of state in a note of December 13th; a copy (No. 6) is inclosed, as it serves to explain the peculiar difficulties under which this, a property of very great value, was placed. No change having been produced by this representation in the opinion of the high court, I obtained that the case should be laid before the Danish chancery; and the report of that body not being sufficiently full and satisfactory, the case was transferred to the Sleswic Holstein chancery (on the king's own suggestion), as Kiel, where the vessel was taken, being within the jurisdiction of that chancery, the affair was not properly cognizable by the Danish chancery. These various operations consumed a great deal of time; but finally, towards the latter end of February, the Sleswic Holstein chancery produced a very laborious and voluminous report in favour of the case, pursuant to which his majesty ordered the high court to pass sentence of acquittal.

With my aforementioned dispatch, No. 10, was transmitted a copy of a note to Mr. de Rosenkrantz (of September 28), respecting the then pending cases generally. Still further to promote the object of it, I again addressed him on November 3d, and, in the progress of the business, perceiving that the high court had lost nothing of its disposition to condemn, and had actually determined to sacrifice one of the clearest cases in the whole list (the "Brutus"), on the 13th December, I thought it necessary to require that its proceedings should be arrested, and its opinions submitted to the king through his chancery (those two notes are Nos. 7 and 8 of the inclosed); the necessary order was immediately given, and thus two or three cases were saved from condemnation. But though the report of the chancery on the case of the "Brutus" was favourable, that vessel was finally condemned; the particular circumstances of her case will be seen in my note to Mr. de Rosenkrantz of April

10th, and the sentence of the tribunal (No. 7 B and 8 B) of the inclosed papers.

At the date of the said dispatch No. 10, there were ten cases depending exclusive of French captures, and inclusive of the "Hannah" and "Two Generals," double captures, as appears by the list which was therewith transmitted. In dispatch No. 11, I mentioned the release of the "Horace" and "Augustus," two of the list, so that there were at that time only six cases of simple capture depending. I have now the satisfaction of informing you that the whole of these have been acquitted, the "Brutus" as above mentioned only excepted. The "Hannah" and "Two Generals" must, I fear, be determined in Paris. The French government has proposed to the Danish that, without reference to these questions of jurisdiction, which have always been found so difficult to arrange to the satisfaction of all parties, the simple rule shall be adopted of determining the question of prize in the tribunals of the country to which the captor may belong, in all cases where he may possess himself of the captured vessel's papers. This proposition has not been, nor do I believe that it will be, acceded to by the Danish government; yet, sir, you will readily perceive, that if the French government should persist, there can be very little expectation of our obtaining from this, the release of a vessel which may have been condemned by the council of prizes. There is even some reason to apprehend that it will so persist, since the French consul has now received orders from the minister of marine to transmit to Paris the papers of the ship "Olive Branch," which, as mentioned in my dispatch No 12, was seized under the very guns of the fort of Nyborg, and this case is peculiarly strong, since the "Olive Branch" had his Danish majesty's licence on board. But I must in this place also mention that my correspondence with Mr. Desaugiers (lately French charge d'affaires here), which was submitted to you with dispatch No. 8, having been also submitted to his government, he is now answered by the duke of Bassano, in terms strongly reprehending the excesses of the corsairs in general, and particularly reproving their practice of hoisting the French flag on board the vessels captured, of which he strictly forbids the recurrence.

The "Rachel," "Rover," and "Packet," three vessels (on the pending lists heretofore transmitted) which have been released, being partly laden with "colonial produce," were, pursuant to the established regulations with regard to vessels so laden, ordered to quit the port and to proceed on their voyages; the French privateers were then watching for, and would infallibly have captured them on their departure. The copies here-

with inclosed, viz. my notes to Mr. de Rosenkrantz of November 27, 28, and 29 (Nos. 9, 10, and 11), Mr. de Rosenkrantz his unofficial note of December 1st (No. 12), my reply of same date (No. 13), Mr. de Rosenkrantz his official note of December 2d (No. 14), relate to this matter, which you will be pleased to observe was very satisfactorily settled.

The last list of vessels which had passed this way, was dated October 9; since then a few scattered vessels have presented themselves, viz.

The "Dolphin," Latham,
"America," Briggs, } from Petersburgh to the United States passed without interruption.

"Ann," How, arrived safely at Christiansand.

"Sally," Brown, turned away from Amsterdam by the English, continued her voyage towards this place, and was wrecked on the coast of Jutland.

"Adriana," Abrahams, of Baltimore, belonging to Smith & co. with a cargo of hides, convoyed by the Danes from Gottenburg to Copenhagen (having Danish license), cargo sold in Copenhagen and re-convoyed to Elsineur.

"Columbia," Jennison, (owners unknown) from St. Ubes with salt, much under the same circumstances.

"Swanwick," Clark, with a cargo of tobacco, property of Pratt and Kintzing, of Philadelphia, do. do.

"Asia," Ormsby, (Brown and Ives, of Providence) with 3500 chests of tea, arrived at Gottenburg some months since, in her voyage from thence to Copenhagen, captured by a Danish privateer, but immediately released, having the king's permission to come hither and sell.

This completes the account of our trade for the last year, as far as particulars have come to my knowledge. In my dispatch No. 12, I transmitted certain statements relating to that trade; triplicate of those statements were sent with No. 14, with the addition of a printed tariff of the duties payable on all merchandize passing through the Sound: a duplicate of the tariff is herewith inclosed. I have lately seen a printed statement of our exports from Petersburgh during the last year, made by a commercial house of that place. It agrees in general with the document No. 3, inclosed with my aforesaid dispatch. It is, however, more complete as to the number of vessels, including all those which went up through the Belt, and gives a total of 127 (noting that in 1810, the total was 100 only), but states that 29 of the 127 were bound to European ports, having as part of their cargoes 23,615 *poods of flax!* Most of these 29

probably returned through the Belt; such as passed the Sound must have had false clearances. In the course of judicial investigations the Danes have already discovered, as is supposed, sufficient grounds of distrusting the character of our commerce: such printed information from what is called a "respectable American house" at Petersburgh, recommending itself to its correspondents by this species of industry, cannot fail to augment that distrust.

All the old and new cases being now disposed of, I herewith inclose a table (No 19) bringing the whole of them, and the proceedings which have been had on them, into one view. I beg you, sir, to observe that of 38 cases of Danish capture ON THE LIST OF 1811 there have been only three appeals of the captors against the sentences of acquittal given by the inferior tribunal, so little have been their expectations of procuring final condemnations, and that excepting the three English and English license cases ("President," "Neptune," and "Aurora,"), there has been but one final condemnation, viz. the "Brutus."

I hope that upon the whole this view will be satisfactory to the president. Mr. de Rosenkrantz told me in an early interview that the administration of justice was as impartial and as prompt here as in any other country; he added (referring to the dispositions of the king) that in future we should have nothing to complain of. How far his assertion was correct, or his promise has been complied with, I will not presume to determine; but I must do that minister the justice to say that he spoke with perfect sincerity, and under impressions the most just and friendly, and to believe, that where the results fall short of our expectations, it has not been from any failure of those dispositions.

I have taken occasion in former dispatches to mention, and in frequent representations to Mr. de Rosenkrantz to remonstrate, against the practices of fining and taxing vessels acquitted in the tribunals. These practices, nearly indiscriminate as they are, I found to be quite unreasonable, in their application frequently most unjust; yet, after all, for the amount of the exactions, they are not oppressive, perhaps had they been abolished altogether, we might not have had quite so many vessels captured; there would certainly have been more appeals, and might have been more condemnations. The lists herewith enclosed (paper marked No. 20) shew the sums which the cases have been charged under the several heads of costs, fines, and two per mille tax in the tribunals of Copenhagen: the two per mille goes to the king's coffer; the fine goes to the captor for his trouble in capturing, where he is supposed to have had just grounds of suspicion; the court expenses are invariably forty

rix dollars (equal to five and a half dollars) in each case. There are no other expenses but advocate's fees: here, as in all countries, the amount of these is settled by agreement between the council and the client; in the inferior tribunal no advocate is employed.

The situation of the masters of our vessels condemned here, was formerly made the more distressing, by the prosecutions to which they were exposed, on account of wages due to their sailors, the laws here compelling them to provide for their crews: these laws had been executed with great rigour, and large sums had been frequently adjudged to be paid by masters, who could scarcely find credit for their own subsistence. The consul had, by frequent representations, endeavoured to remedy this evil, but without success. When I came to act in this matter, I was answered, that if the master deceived the men by engaging them in a vessel which was not in fact American, as he pretended, it was but just that he should pay them, his sufferings then were chargeable only to his own misconduct: however, I finally obtained that it should be laid before the chancery; that tribunal, by a report of January 11, adopted by his majesty, decreed that "no law-suit regarding the wages due to North American mariners from their captains shall be admitted before the tribunals." I did not succeed in obtaining payment for the men out of the condemned vessel, but on this point thought it not prudent to go far.

With the most perfect respect and consideration, I have the honour to be, sir, your very obedient servant,

GEORGE W. ERVING.

Mr. Monroe, Secretary of State.

No. 7. B.

Mr. Erving to Mr. de Rosenkrantz.

Copenhagen, April 10, 1812.

Sir, In one of the first interviews which I had with your excellency, you assured me, on the part of his majesty, "*That for the future the United States should have nothing to complain of.*" Fully relying then on the good faith and friendly sentiment in which this declaration was made, to those favourable dispositions of his majesty I have addressed all my subsequent reclamations; and the reports which I have, from time to time, submitted to my government, have corresponded to the harmony thus established in our proceedings. Judge then, sir, with what extreme concern and regret I now find myself under the necessity of protesting and reclaiming against a sentence of the high court of admiralty, grounded on the king's own deci-

sion, against the American ship Brutus and her cargo, the genuine property of American citizens, in favour of which I have been for several months negotiating with your excellency; respecting which I have furnished documentary evidence of great importance, and the circumstances of which I was so fully authorized to consider as peculiarly favourable: judge, sir, of the concern with which I see, in the sentence now given, that the reclamation which I have made in this case, has been passed over; the documents which I have furnished have been set aside, and that grounds for condemnation have been assumed, wholly insufficient, and, in part, even contrary to facts as established by those documents. I am perfectly certain, that his majesty does not believe that I am capable of attempting to support any cause but the just cause of a genuine American citizen, nor shall I readily abandon the conviction, that he is still actuated by the just and friendly dispositions which motived the declaration above cited; hence I must presume that the misrepresentations which have been made to him, and the influence which has been produced in his mind, on the present occasion, are of a very extraordinary character. This conclusion is the more unavoidable, since, certainly, I have long since succeeded in convincing your excellency, who has such high and indisputable title to the entire confidence of his majesty, that the cause of the Brutus is a just one; nor can I in this view fail to notice that the opinion of the chancery was in its favour; that there was a division of opinion among the members of the high court, and that the vessel was fully acquitted by the inferior court in Norway. By my note of December 13, 1811, I furnished to your excellency proofs that the captor's appeal from that sentence had been made only because the American captain (Fenno) refused to pay 6000 rix dollars by way of compromise, and this complaint having been laid, by his majesty's order, before, and having been duly investigated by, the chancery, was deemed to be so well founded and so reasonable, that a new and severe law upon that subject was judged to be expedient. This is, in fine, the only case which has come before the king wherein he has decided unfavourably against a prior sentence of acquittal by one of his tribunals; and it is the only case, as far as I know, wherein a difference of opinion amongst the members of the high court existing, he has not decided in favour of the claimant. To the just and liberal principles which actuated his majesty on such occasions, in this case was added that, which even in default of other favourable circumstances, it was to be supposed could not but determine him to release the vessel—the offer on the part of the captors, and the refusal on the part of the Ame-

rican captain to compromise; for what stronger presumption can be furnished against the justice of the captors' claim than their offer to compromise it for a small sum, or what more favourable to a belief in the American captain's innocence than his refusal to pay that sum?

By the copy of the sentence which I have herewith the honour to inclose, your excellency will perceive that the tribunal has commenced by an assertion that captain Fenno, during his detention, attempted to escape, and that, upon this supposed attempt, are grounded its "suspicions;" but in the note which I addressed to you on the 4th January, I inclosed a document which proved most incontestably that no such attempt was made, and that the assertions of the captors, in this respect, were altogether false. How astonishing then that the high court should venture to place its sentence on such ground. The other motives mentioned in the sentence, considered as objections to *the neutrality of this ship and cargo*, are scarcely entitled to comment. What if different hand writings are found in a sea letter which issues from a department where many clerks are employed? what if "*omissions*" or "*errors*" in such or other documents? I must observe, however, that the sea letter in question was submitted to the examination of the American consul, Mr. Saabye, and that he gave a formal certificate that the paper was genuine; which certificate was submitted to the court by the claimant's council. As to the certificates of the French consul, the American captains must receive them as the consuls may please to give them, with whatever errors or absurdities they may contain. But it is worthy of particular observation that the objection made in this case to the French consul's certificate originated in the tribunal itself; the captor did not deem that certificate to be of any importance; no objection was taken to it in any of the prior proceedings; the counsel of the American captain, of course, had not any opportunity of defending his client on that head. We herein see an innovation on judicial proceedings, of a character entirely novel: the court placing itself in the situation of the accusing party, and condemning the property in litigation, on grounds not assumed by the captor. The only documents of real importance to be considered are, 1st. the register; is it or is it not a genuine document, proving the vessel to be the property of the persons therein named? 2d. the clearance; did the vessel or did it not come from New-Orleans, as the captain pretends? 3d. the bills of lading and invoice; do they or do they not describe the cargo actually on board? These points satisfactorily established, what else can be wanting where the intention is to do justice to the captured, and to respect the neutral rights of the country to which

he belongs? I can assure your excellency, in fine, that of all the decisions which have taken place since my arrival here, the one now in question is the most extraordinary; if amongst all the just cases in which I have interfered, there was one which appeared to me to stand most clear from difficulties of all kinds, it was this of the Brutus, and I was still more gratified, in the confidence which I have indulged that the vessel would be acquitted; because it is the last remaining on the list of the captures which have occurred since my arrival here. What may be the merits of the captors, in the view of the king, I will not presume to conjecture; but I am sure that they cannot have any which can interfere with a due application of his majesty's just principles, or any, in relation to this case, which are not founded on misrepresentation. I must, therefore, earnestly request that your excellency will lay this representation before him, and I do confide that, when his majesty sees what I have stated, and is pleased to consider the inclosed sentence of his tribunal, he will think proper to reverse it, and to order the restitution of the property thus condemned.

I have the honour, &c.

(Signed) GEORGE W. ERVING.

His excellency Mr. De Rosenkrantz,
first minister of state, &c.

No. 8. B.

[Translation from the Danish.]

Copy of the sentence pronounced by the high court of Admiralty, in the case No. 164 $\frac{139}{1811}$

Captain John Fenno,
against
J. T. Samuelsen, and other privateer captains.

As captain Fenno's conduct during the detention, in endeavouring to escape the privateers, must render him suspicious, and therefore authorize the capture, so his later conduct affords a grounded reason for calling his neutrality into question.

Besides, in the very documents by which captain Fenno wants to prove the nationality of the vessel and the legality of the voyage, there are found such deficiencies, that the precepts contained in the prize act in this respect cannot be looked upon as being accomplished.

1. The sea letter is not in the usual order; as partly it is not filled out, and partly an elucidation is wanting in several places respecting the domicil and burthen of the vessel. The only place where the burthen is mentioned is perceptibly added by

the strange hand. Thus the sea letter can only be considered as a blank, arranged per males artes for the use of this vessel.

2. The attest found on the certificate of the cargo, under the name of the French consul, must be false. Though the French consuls might still, in the year 1811, have made use of the insignia of the French republic, still it can no wise be admitted that words without meaning should have been inserted in their seals, which words are even put in a reversed manner. Thus this seal must be counterfeited, by which no caution nor accuracy has been observed in order to imitate the true one. But if the seal be considered as false, it also follows from thence, that the same must hold good with respect to the attest, the genuineness of which the seal is to confirm, and from this it further results, in pursuance of the prize act, and his majesty's resolution communicated under the 23d October, 1810, to this high court, that such a false attest vitiates the authenticity of all the other documents even if they are in apparent order:

DECREED,

The ship Brutus, John Fenno, master, together with her cargo, litigated in this case, are hereby adjudged to Jens Tobias Samuelsen, and other privateer captains, as a good prize. The court charges of the prize court shall be paid out of the ship and cargo. For the rest the costs of the process are annulled.

The high court of Admiralty in Copenhagen, the 7th April, 1812.

(Signed) WLEUGEL.

I certify the correctness of the copy.

(Signed) N. TERBOL.

I certify that I have truly and faithfully translated the above from the Danish.

Witness my hand and seal of office,
Copenhagen, the 8th of April, 1812.

(Seal.) N. HENRIQUES,
Translator Royal.

No. 20.

Extract from the list of vessels captured or detained in the year 1811. This extract being of those which were tried and released by sentences of the prize court in Copenhagen, from which the captors did not appeal; and showing the amount of costs, fines, and taxes under the 2 per mille law, paid in virtue of said sentences.

Vessels.	*Captains.*	*2 per Mille.*	*Court Expenses.*	*Fines.*
		Rix dls.	*Rix dls.*	*Rix dls.*
Phœnix,	Freeman,	92	40	800
Swift,	Clarkson,	250	40	
Augustus,	Flint,	600	40	400
Dover,	Burrough,	118	40	30
William,	Goodwin,	92	40	30
Experiment,	Vibbert,	320	40	150
Swift,	Daggett,	160	40	
Zodiac,	Miller,	1,212	40	800
Egeria,	Law,	902	40	
George,	Howland,	329	40	
Sukey,	Osgood,	400	40	
Lion,	Jones,	1,412	40	1,000
Concordia,	Johnson,	2,000	40	
Packet,	Somes,	648	40	1,000
Jane Maria,	Moffat,	36	40	600
Rover,	Groves,	392	40	600
Augustus,	Flint,	1,094	40	1,500
Horace,	Leach,	828	40	1,500
		10,876	720	8,410

Amount of 2 per Mille,	10,876
Ditto Expenses,	720
Ditto Fines,	8,410

Total amount, 20,006 Rix Dollars.

N. B. The Danish rix dollar may be estimated, in this account, at an average of seven and a half equal to one Spanish.

This extract does not contain the vessels released by the prize court in Norway, viz: "Hœbe," Porson, "Pilot," Gower, "Industry," Cook, "Fame," Perry, "Comet," Dennis.

Nor the "*Rachel*," Mattenly, released at Aalborg.

Nor the "Delaware," Gill, and "*Dolphin*," Latham, which were released on the preliminary examinations.

Nor the "*Herald*," Silsby, which was neither fined or taxed, but received eight Spanish dollars for each day's detention, all costs paid by the captor.

Extract from the lists of cases which were pending on the 30th May, 1811, and of those which occurred during the year 1811, subsequent to the 30th May. This extract containing all such cases as have been acquitted on appeals to the high court of admiralty in Copenhagen, and showing the amount of costs, fines,

and taxes under the 2 per mille law, decreed against them in the sentences of said high court.

Vessels.	*Captains.*	*2 per Mille.*	*Court Expenses.*	*Fines.*
		Rix dls.	*Rix dls.*	*Rix dls.*
Egeria,	Law,	550	40	1,000
Oscar,	Cunningham,	400	40	
Minerva,	Baker,	408	40	1,000
Pittsburg,	Yardsly,	322	40	
Richmond,	Jarvis,	212	40	1,000
Amiable Matilda,	Hague,	332	40	
Nimrod,	Smith,	356	40	1,000
William & Jane,	Bunker,	760	40	2,000
Rachel,	Joseph,	548	40	
Washington,	Almy,	652	40	
Washington,	Brown,	246	40	2,000
John,	Reynolds,	540	40	
Jeremiah,	Russell,	438	40	
Nancy,	Eveleth,	246	40	1,000
Joseph,	Allan,	352	40	
Maria Theresa,	Phelps,	156	40	700
Laura,	Lambert,	404	40	1,500
		6,922	680	12,200

Amount of 2 per Mille,	6,922
Ditto Expenses,	680
Ditto Fines,	12,200
Total amount,	19,802 Rix Dollars.

N. B. This extract does not contain the "Ariel," Butler, "Fair Trader," Craig, "Minerva Smyth," Mann, acquitted by virtue of decree of Sleswic Holstein chancery.

Nor the "Maryland," Peters; in which case sentence had not issued at the closing of this list.

(Signed) GEORGE W. ERVING.

Copenhagen, April 10, 1812.

No. 17.

Mr. Erving to Mr. Monroe, Secretary of State.

Copenhagen, April 12, 1812.

Sir, With my despatch No. 10, was submitted to you copy of the reclamation, dated November 4, which I thought it my duty to make against the sentences of condemnation, passed by the Danish tribunals in the years 1809 and 1810 on American ships and cargoes. Mr. De Rosenkrantz was prevented at first

by ill health, and afterwards for a long time by a pressure of various business (as I understood), from laying it before the king. In the mean time he continually discouraged any expectation that his majesty would accede to the propositions which it contains, persisting in his declaration to me on my first arrival here, that there was no remedy for the past. Finding that in the usual course of business it was necessary for the minister to inform himself fully and particularly as to the contents of the note, so as to submit it to the king by abstract only, I thought that I might at once expedite my object, and add to the probability of success in it, by having the note translated into the Danish language. I sent such a translation to the minister on the 22d January, requesting (by No. 1 of the inclosures) that the whole might be laid before the king. This was done on the 14th of February, and on the same day the minister addressed to me the note No. 2, relating to Danish claims on our government, to which I answered on the 17th February as by No. 3, and on the 9th instant I finally received the minister's reply to my reclamation of November 4 (No. 4 of the inclosures).

All my former communications, sir, have prepared you for this result, and the most extraordinary delay of the king in announcing it, though so far creditable to him inasmuch as it denotes the reluctance with which he has come to a conclusion, which he cannot conscientiously approve of, and which he has not found any admissible pleas to support or to countenance, yet has also afforded me the means of ascertaining that no favourable change of this determination is to be hoped for.

All the business which my appointment had in view being now completed, and as there is not, as far as I know, one American vessel actually under detention (by Danish capture) in any port of this kingdom, after answering the minister of state's note in suitable terms, I propose, pursuant to my instructions, to take leave and depart for Paris. I wrote yesterday to Mr. Barlow for passports, and as soon as they arrive, which may be about the commencement of next month, I shall be entirely ready to make use of them. In the mean time I send home with this and other dispatches my secretary Mr. Lewis, whose fidelity, industry, and zeal in the public service, I so entirely approve of, that I cannot but recommend him to your patronage and protection. Previous to my departure I propose, as I have before mentioned to you, to present Mr. Forbes in the quality of "agent" to the minister of state and to other departments of government here, and I doubt not that if any of our vessels should hereafter be captured by Danish cruizers, he will be able to afford them every assistance of which their cases may be susceptible, and that

his respectability of character and his other qualifications will procure due attention to his official representations, I hope also that on my return to Paris, I may be able to assist Mr. Barlow in obtaining a favourable adjustment of the questions which have arisen out of the French captures in this quarter.

It seems to be scarcely probable, even if we should not be at war with England, that any of our vessels which may have left the United States for Russia, will, if they touch at Gottenburg for information, proceed on their voyages; for either the emperor of France will occupy the Russian ports, or the emperor of Russia will submit to his terms: in either of which cases those ports will be rigorously closed against "colonial produce." If the emperor of Russia should successfully resist, then his country will be inundated with whatever we can supply by the commerce of England. In this last case it is not to be supposed that the English will take any neutral vessels under their convoy: in the two former cases the neutral will not have any motive for joining convoy. On the other hand the French cruizers will certainly intercept every vessel not under convoy which may enter the Baltic with colonial produce: and it is equally certain that such cruizers will be sufficiently numerous; for, independent of the privateers properly French, the Danes have found so little encouragement for privateering during the last twelve months, that many of them are reduced to the necessity of seeking French commissions.

Mr. Lewis will carry with him the original of my dispatch No. 10, which incloses authentic copies of the sentences therein referred. In these, sir, you will notice more particularly the extraordinary principles and offensive doctrines on which the tribunals have founded their decisions, and in case our country should still continue in peace, government, having the whole matter before it, will be able to give our commerce such direction, and to place it under such regulations as may best comport with its future security.

With the most perfect respect and consideration, sir your very obedient servant,

(Signed) GEORGE W. ERVING.

James Monroe, esq. Secretary of State.

No. 1.

Mr. Erving to Mr. De Rosenkrantz.

Copenhagen, January 22, 1812.

Sir, I have the honour herewith to inclose a translation into the Danish language of my note to your excellency of November 4th, and of the statement thereto annexed. These I have caus-

ed to be prepared with particular care, trusting that you will be pleased to lay them, in their entire form, before his majesty.

I cannot but take this occasion of renewing to your excellency the expression of my earnest desire that you would enable me to transmit to my government his majesty's resolutions on the subject, nor of my anxiety that those resolutions, marked by the enlightened and friendly policy which I have anticipated in my reports to my government, may correspond to the just expectations of the United States, and cement that harmony and good understanding between the two countries which ought always to subsist. I have the honour, &c.

(Signed) GEORGE W. ERVING.

To his Excellency Mr. De Rosenkrantz,
first minister of state, &c.

No. 2.

[Translation.]

The Danish brig Henrick, captain Scheel, departed for cape Francois in 1799, was captured in the month of October of the said year by a French privateer, and re-captured a few days afterwards by the United States ship Pickering, which took her into the Island of St. Christopher's, where she was condemned on the ground of being recaptured, whereby the owner only obtained about one eighth part of the value of the vessel and cargo.

The American government ought to be held responsible for this measure, having by their instructions of the 12th March, 1799, authorized her armed vessels to re-capture all prizes taken by French privateers. The sentence of condemnation pronounced, appears also to contain an inadmissible application of the American laws, which do not relate to the re-capture of *neutral* vessels. The two accompanying printed documents prove, that Mr. Madison, then secretary of state of the United States, recognised the validity of the claim, and recommended the interests of the claimant to congress. The owner, however, having been frustrated in his attempt to obtain the compensation due to him, has been obliged to institute a suit against the officers who re-captured his vessel, of which he is still waiting the issue.

A similar claim was preferred by the owner of the ship *Mercator*, captured in 1800, by lieutenant Maley, commander of the United States vessel *Experiment*, afterwards taken by a British cruizer, which carried her to Jamaica, where she was declared a good prize.

It is shewn by the annexed printed report, that damage to the amount of 33,864 dollars has been awarded to the owner in this case, but he has not yet been able to obtain payment.

In presenting these claims to the notice of Mr. Erving, the special minister of the United States of America, the undersigned minister of state, and chief of the department of foreign affairs, flatters himself, that he will lay them before his government, and endeavour to obtain for the parties interested, that indemnity, which the justice of their claims so evidently calls for; but which the intervention of his majesty's charge des affaires has not, to the present period, been able to accomplish.

The undersigned, in praying Mr. Erving to have the goodness to return to him the enclosures, avails himself of the opportunity of renewing the continued assurance of his high consideration.

(Signed) N. ROSENKRANTZ.

Copenhagen, February 14th, 1812.

No. 3.

Mr. Erving to Mr. De Rosenkrantz.

Copenhagen, February 17th, 1812.

Sir, I have received your excellency's note of the 14th inst. relating to two claims of Danish subjects, on the government of the United States. I am uninstructed as to those claims otherwise than by that note and by the documents which it inclosed. In these I perceive with great satisfaction, that during a war of two years between the United States and France, at a time when the Danish commerce was in activity, and the western ocean was covered with American cruisers, the causes of complaint afforded to this country were confined to these cases, one of them a mere question as to the amount of salvage exacted on a recapture, and both of them grounded on the errors or misintelligence of officers employed on foreign stations; that these reclamations do not involve any misconduct of American tribunals, any violation of public law, any offence of neutral rights, or any bad faith or unfriendly disposition in the government of the United States; but on the contrary that in every stage of the claims, a love of justice, a respect for neutral rights, and a frank, generous, and friendly character towards Denmark, has been continually manifested by that government; and finally, that complete satisfaction to the claimants has hitherto been delayed by causes, which, though beyond the controul of the executive, do not forbid the expectation of redress.

I shall have the honour to submit to my government a copy of your excellency's note, adding whatever may be proper on my part to promote the object of it. I renew, &c.

(Signed) GEORGE W. ERVING.

To his excellency Mr. De Rosenkrantz, 1st minister of state, &c.

I return herewith the printed papers which were enclosed in your excellency's note.

Note, No. 4.

[Translation.]

Copenhagen, April 9th, 1812.

The undersigned, minister of state of the department of foreign affairs, having laid before his majesty the note which Mr. Erving, the special minister of the United States of America, addressed to him the 4th of November last year, the principal object of which was to claim the revision of several sentences definitively pronounced by the supreme tribunals of admiralty, which the special minister considers ill founded, and in opposition to the principles he maintains ought to serve as a basis to the proceedings on prizes and rules for the judges, authorized to pronounce between the captors commissioned by the Danish government, and the captains and owners of whose vessels have been captured under the flag of the United States, is authorized by the orders of his majesty to make known to Mr. Erving, special minister of the United States, that the king's very particular sentiments of friendship for the United States, and his esteem for the president, cannot influence him to permit a revision of the sentences pronounced, terminating the causes arising from captures made by the cruisers under the flag of the state.

The principles which have formed the basis of the privateer regulations, and which have not been lost sight of in giving the instructions to the tribunals, charged to examine in matter of prizes, are the same as those generally received, and according to which the Danish tribunals of the admiralty judge, and decide on the captures of vessels under other flags than that of the United States.

The special minister will be pleased to find in this assertion, which is founded on the facts he may have made himself acquainted with since his residence here, that the American flag has on all occasions been treated in the maritime tribunals, conformably to the rules established, precisely in the same manner as the neutral flags of Europe.

The undersigned is moreover authorized to observe to Mr. Erving, special minister of the United States, that if permission were given to the captured, who have pleaded before the tribunals which have decided by a definitive sentence between the parties, to make in their favour revision of the causes terminated, the same indulgence should be given to the captors, who might complain of the sentences pronounced against them, and that in this manner the causes arizing from prizes would expe-

rience indefinite delays, as prejudicial to the captured as to the captors.

The undersigned, in expressing to Mr. Erving his regret at not being able to grant what the special minister proposed to him, has the honour to renew to him the assurance of his high consideration.

(Signed) ROSENKRANTZ.

No. 19.

Mr. Erving to Mr. Monroe, Secretary of State.

Copenhagen, 17th April, 1812.

Sir, I have the honour herewith to inclose the reply of Mr. De Rosenkrantz to the last reclamation which I presented to him in the case of the "Brutus," copy of which was transmitted with my dispatch No. 16.

With the most perfect respect and consideration, sir, your very obedient servant,

(Signed) GEORGE W. ERVING.

Copenhagen, 16th April, 1812.

[Translation.]

The undersigned minister of state, and chief of the department of foreign affairs, has not failed to attend to the reclamations which Mr. Erving, the special minister of the United States of America, made to him under date of the 23d September, 23d November, and 13th December of the last year, in favour of the different American vessels, and specially in that of the Brutus, Fenno, master, captured and brought into a port of Norway.

It is known to Mr. Erving, that the causes of the vessels mentioned in the list of the 13th December, have all been decided in favor of the captured, with the exception of the Maryland, now waiting a decision, and of the Brutus, which as well as the others have been reported to the king.

It is with regret that the undersigned is obliged to inform the special minister, that his majesty, after having examined into this affair, has thought proper to leave to the supreme tribunal of the admiralty the pronouncing of the sentence, conformably to the principles and instructions prescribed to this tribunal by the regulations concerning privateers, and the ordinances regulating the proceedings before the supreme tribunal, and that this tribunal considers itself authorized to condemn both vessel and cargo for the reasons expressed in the sentence.

The decision of the king having been acted upon before the note of Mr. Erving, under date of the 10th instant, reached the

undersigned, as the special minister will see by the date of the annexed copy of sentence, he has not been able to make use of the reiterated reclamations of Mr. Erving.

The undersigned flatters himself to be able shortly to inform the special minister, that the cause of the ship Maryland has been decided favourably.

He has the honour to renew to him the assurance of his high consideration.

(Signed) ROSENKRANTZ.

No. 20.

Mr. Erving to Mr. Monroe, Secretary of State.

Copenhagen, April 18th, 1812.

Sir, I have the honour herewith to inclose copy of what I propose to send to Mr. de Rosenkrantz, in reply to his note of the 9th instant.

With the most perfect respect and consideration, sir, your very obedient servant,

(Signed) GEORGE W. ERVING.

P. S. I shall leave with Mr. Forbes the *documents* belonging to the claims here, and the claimants' letters; but I think it most proper upon the whole to transmit to you the original notes of Mr. de Rosenkrantz, and they are therefore herewith inclosed.

G. W. E.

Mr. Erving to Mr. de Rosenkrantz.

Copenhagen, April 18, 1812.

The undersigned, special minister of the United States of America, has had the honour to receive the note which his excellency Mr. de Rosenkrantz, first minister of state, and chief of the department for foreign affairs, addressed to him on the 9th instant, by order of his sovereign, in reply to the reclamation made by the undersigned, on the 4th November, 1811, against certain sentences of Danish tribunals, passed in preceding years, on vessels and cargoes the property of American citizens.

It appears that his majesty has not thought proper to authorize the minister of state to enter into discussion with the undersigned upon any of the various subjects which that reclamation embraces; to contest or to acquiesce in any of the doctrines upon which it is basised; to offer any satisfaction for any of the various injuries which it complains of, or to propose any correction of the abuses and malversations which it points out as the sources of those injuries.

It is, therefore, the duty of the undersigned formally to declare, that the government of the United States cannot rest sa-

tisfied with such a mode of treating rights which it holds sacred, and will never sacrifice, and with such a rejection of the just claims of its injured citizens, which it will never cease to assert and to protect.

The president will certainly receive with satisfaction the sentiments of particular friendship towards the United States, and of esteem for himself, which his Danish majesty has been pleased to profess; sentiments which he will readily reciprocate. Such sentiments he was eager and sincere in advancing; but he will, at the same time, receive with surprise as well as with peculiar concern, the declaration with which these professions are accompanied, refusing a reparation for the wrongs which he has complained of; wrongs which, unredressed, cannot but be considered as being but little in accord with such sentiments.

These, his impressions, must be rendered still more forcible by the recollection that a suitable redress for similar wrongs has never been altogether withheld by any of the belligerent powers with which the United States have occasionally found themselves in collision; but, on the contrary, that each of the chief belligerents has, heretofore, furnished a signal example wherein the firm and temperate voice of justice has prevailed over an erroneous policy; each has attended to, and respected, the remonstrances of the United States, satisfied their demands, and amply compensated the losses which the temporary adoption of false principles, or the misconstruction or malapplication of acknowledged principles, had brought upon their citizens; thus recognizing the sovereignty of just laws and the indefectibility of the neutral rights which spring from them: nor can the president be now reconciled to any infringement of these, to the cruizing regulations of Denmark in those points which may offend them, or to the decisions of any tribunals, in as far as they may have the same tendency, by the only apology which his majesty has authorized the minister of state to offer for the wrongs complained of, viz. that these regulations and these decisions are founded upon the same principles which direct the conduct of Denmark towards neutral European powers, and that in cases wherein those powers have been thereby affected, no revision or retrospect has taken place: for, without entering into the enquiry whether there does or does not exist a European power neutral with regard to Denmark, and with which she can possibly come into collision on such subjects, without pointing out the difference between the neutral position of the U. States and that of any European power, or examining in any degree the conduct of Denmark towards the European powers, neutral or otherwise, it is sufficient to observe, that the United States have not made com-

mon cause with any other neutral power; they have not bound up their fate with, nor do they mean to submit their rights to the arbitration of, or to pare them down so as to suit the convenience of any power whatever: these rights are clear, pronounced, and unequivocal: they are found in the great code of public law. If other powers have not the same interest in defending; if they find it convenient to relinquish, or, for any other reasons whatever, cease to assert such rights, no obligation to abandon them is thereby imposed on America; but on the contrary, standing alone amidst the great struggle of nations, her obligation to protect that sacred deposit is strengthened, and she becomes doubly responsible to posterity for this great inheritance; since she is not deficient in the power and means of preserving it.

His excellency, the minister of state, seems to suppose, that the principal object of the undersigned is to obtain the "*revision*" of the sentences of the tribunal specified in his note of November 4th. It is proper, therefore, to consider this part of the subject, though he must premise by observing, and he begs his excellency to understand, that the object of that note, which embraced various subjects of complaint, was to obtain satisfaction and compensation, leaving the "mode" and the "means" to be adjusted by mutual accord; for he is entirely unwilling to rest the claims of the United States, or to make them in any wise dependant on an abstract discussion as to the course which may be taken to produce the satisfaction required.

The undersigned, in his note of November 4th, has shown, as he trusts, most clearly and indisputably, that the rights of the United States, as a neutral nation, have been violated by the decisions therein referred to; if not, he has invited the minister of state to discuss the principles on which his reclamation is founded. Can it be deemed to be a satisfactory answer to such a reclamation that other nations have submitted to similar decisions? Can it be imagined, that the term "definitive," as applied to such decisions, is conclusive against the United States? Can it be expected that they will acquiesce in a decision as *just*, because it is termed "definitive?" The constitution, the faculties, and the police of admiralty tribunals in this as in every other country are formed by and depend on the will of the sovereign, and he is strictly responsible to foreign nations, in all cases affecting their rights, for a correct administration of justice on the principles of public law which forms the basis of those rights. No foreign nation submits its cause to the arbitrary or capricious decision of such tribunals, or respects their decisions in any degree further than as these may be found to conform to its own sense

of its own rights. The tribunal is the mere instrument of the sovereign with which he operates, and it is his duty so to direct and use it, that it may not do injury to the rights of others. The foreign nation, therefore, looks with reason to the tribunal only as indicative of the temper of the sovereign by whom it is appointed and under whose authority it acts, and not as to the arbitrator of its own destiny. When a foreign government complains of the conduct of such tribunals, it calls upon the good faith of the sovereign to repair the wrong which he ought to have restrained. Shall it be competent to the sovereign to refer the offended party for satisfaction to the very cause of complaint? What is this but to adopt the injustice complained of? Since when has it been agreed that the belligerents shall give law to neutral nations? Does the "ancient faith" which in peace augmenting confidence removed the probabilities of war, and in war mitigated its horrors, does it no longer subsist? Or in a merely political calculation does it not occur that the belligerent may hereafter become neutral? However these questions may be answered, it is certain that there is a self-conserving principle in truth and right which ensures their vindication, so that a nation may be said to be deceiving itself when it refuses what is due to the just demands of others.

His excellency the minister of state, has been instructed to observe, that if his majesty could consent to a revision of the sentences of his tribunals in favour of those whose property has been condemned, he ought to extend such revision to the sentences by which captured property has been acquitted.

The undersigned takes the liberty of remarking that the reclamation which he has made, is the reclamation of the American government against certain sentences of condemnation passed on American property by tribunals appointed by his Danish majesty, and acting under his authority. The American government finds itself aggrieved by such decisions. Is his majesty dissatisfied with the decisions of a contrary character by which American property has been acquitted? certainly not: yet only upon that ground could his majesty desire a revision of the sentences of acquittal: for no question now exists between the captor and the captured: the question is between government and government: nor is it readily to be conceived that tribunals whose decisions the government of the United States has found such ample and solid reasons to complain of, can in other cases have done injustice to his majesty's subjects. It is because the tribunals have been partial to his majesty's subjects, because they are not courts of arbitration in which the United States has its equal representation, and hence have acted on principles the jus-

tice of which the United States does not acknowledge, that a revision of their sentences against the property of American citizens may be reasonably proposed by the American government, and may be acceded to by his majesty, without this plan contemplating any injury to his subjects. These are the grounds on which similar revisions have been demanded in other countries, and have been granted, and compensation obtained, without its ever having been proposed that sentences of acquittal, which have only tended to diminish the amount of the injuries complained of, should be also revised.

The undersigned cannot therefore but hope that his Danish majesty, on a reconsideration of this important subject, will see fit to adopt some plan, with respect to the matters complained of, which may satisfy the just expectations of the United States. He has thought that it best comported with the friendly and conciliatory dispositions of his government, not to propose any which should interfere with such arrangements as having due regard to the object it might be most convenient to his majesty to make, and therefore in his note of November 4th stated, what he will here repeat—" that the mode, the means, and to a certain extent even the time may be subjected to considerations of mutual convenience and accord." He requests that the minister of state will be pleased to lay this note entire before his majesty.

He renews to his excellency the minister of state, assurances of his distinguished consideration.

(Signed) GEORGE W. ERVING.

His excellency Mr. de Rosenkrantz, first minister of state, and chief of the department of foreign affairs, &c.

No. 21.

Mr. Erving to Mr. Monroe, Secretary of State.

Copenhagen, April 20th, 1812.

Sir, with my dispatch No. 8 (of September 8), I had the honour to submit to you copies of my correspondence with Mr. Desaugiers, then charge d'affaires of France, which I had previously laid before the minister of state here, and which was also transmitted by Mr. Desaugiers to his government. In my notes to Mr. Desaugiers were particularized the various excesses of the French corsairs in these waters, which appeared to me contrary to the spirit and intention of that government, as well as injurious to our commerce. It is with great satisfaction that I now transmit to you the new instructions which Mr. Desaugiers has been ordered to give to the captains of the corsairs.

With the most perfect respect and consideration, sir, your very obedient servant,

(Signed) GEORGE W. ERVING.

No. 22.

Extract of a letter from Mr. Erving to Mr. Monroe, Secretary of State.

Copenhagen, May 9, 1812.

" I have the honour herewith to transmit to you duplicate of my letter No. 20 (by Mr. Lewis), dated April 18th. The note of the same date to which it refers, with the few alterations which will be found in this duplicate, was sent to Mr. de Rosenkrantz on the 21st, and was laid by him before the king on the 1st instant. In the mean time I had several conversations with that minister upon the subject of it, in which I did not fail to urge whatever might contribute to a favourable answer on the part of his majesty. Finally, on the 8th instant (yesterday), he sent to me the note of which the inclosed is a copy. You will observe, sir, the new position which our claims assume under this communication, and the reasonable expectation which it affords of a settlement hereafter. I have endeavoured to have this point placed in a more formal and explicit shape."

[Translation.]

Mr. De Rosenkrantz. to Mr. Erving.

The undersigned, minister of state and of foreign affairs, has had to explain to Mr. Erving, special minister of the United States of America, in his note of the 9th of last month, the motives which have influenced the king his master not to grant the revision of the sentences of his supreme tribunal of admiralty, definitively terminating the causes brought before this tribunal, arising from the captures made by Danish cruizers, of vessels sailing under the flag of the United States, and that for this reason he could not persuade himself that the ulterior representations which the special minister had thought proper still to address him could produce any change in the determination of his majesty. The minister of foreign relations has however prevailed on the king his master to be pleased to examine the note which Mr. Erving addressed to him under date of the 18th of last month, reiterating the claim to redress for the wrongs previously recited, and satisfaction for which he considers it his duty still to insist upon.

The undersigned hastens to have the honour to inform the special minister that it has been enjoined on him by his sovereign to answer the above-mentioned note of the special minister by

referring to the contents of his preceding note of the 9th, as to the friendly dispositions of his majesty towards the government of the United States, to add the expressions of his extreme regret that he annot agree to the opinion expressed by Mr. Erving as being that of his government, in regard to the conduct observed towards vessels under American flags, brought into the ports of his dominion by his armed vessels or by those provided with letters of marque.

The war in which the Danish nation is engaged with Great Britain, who employs every means to conceal from observation the enterprises of its merchants, in making use of foreign flags; and merchants have caused those measures, the object of which is to preclude English commerce from the advantage growing out of the disposition it has always found in the merchants of other nations, to become the agents of prohibited trade: it is too well known to Mr. Erving, and it ought to be to his government, that American merchants and mariners have frequently lent themselves to enterprises of this nature, for the Danish government to consider it necessary to multiply the proofs which it has on this subject.

It is known to the Danish government that the United States do not pretend either to approve or defend the conduct of American citizens, who, from the thirst of gain, are engaged in enterprises which expose them to loss, if the fraud is discovered: proofs are not wanting to show that they have frequently succeeded in imposing both on the officers empowered to examine captured vessels, and on the tribunals of prizes. The subterfuges to which they resort to prevent the discovery of the enemy character of the expedition have necessarily induced those intrusted by the king with the examination, as well as the tribunal, to redouble their activity, in order to fulfil the views of his majesty; but it never has been conformable with these to suffer that any injury should be sustained by the mariners and merchants of friendly nations who carry on a licit and unsuspicious commerce.

The persevering struggle of the Danish government in favour of the principles upon which repose the liberty of the commerce and navigation of neutral nations, forbids the supposition that it would wish to derogate from them; but it has a complete right to tear the mask from the commerce of its enemy, who recognises no law in regard to navigation, as soon as neutral powers are in question. The king will not renounce the exercise of this right. If his majesty could be persuaded that in particular cases it should happen that appearances might have prevailed in the examination of some causes to the detriment of some Ame-

rican citizens, who might not have been able to demonstrate sufficiently that their enterprises of commerce were legitimate, he would assuredly be led to redress just complaints, as he has on several particular occasions given proofs of his favourable dispositions towards the American vessels which circumstances have conducted to the ports of his kingdom.

The king wishes, therefore, to give, himself, proofs to the government of the United States of the sentiments of justice with which he is animated.

The undersigned flatters himself, that the president of the United States will be easily persuaded that during so hard a contest as that which Denmark now sustains against the government who so evidently disavows the rights of nations engaged in navigation, the moment is not favourable to bring anew under consideration the reclamations which the government of the United States may find it convenient to make at that period in relation to the objects in discussion.

The undersigned has the honour to renew to the special minister the assurance of his high consideration.

(Signed) ROSENKRANTZ.

Copenhagen, May 8, 1812.

Message from the President of the United States, transmitting a Correspondence between the Department of War and the Governors of the States of Massachusetts and Connecticut, upon the subject of the Militia of those States.

To the Senate and House of Representatives of the United States.

I transmit to congress copies of the correspondences between the department of war and the governors of Massachusetts and Connecticut, referred to in my message of the fourth instant.

November 6, 1812. JAMES MADISON.

(Circular.)

Sir, *War Department, April 15th*, 1812.

I am instructed by the president of the United States to call upon the executives of the several states, to take effectual measures to organize, arm, and equip, according to law, and hold in readiness to march at a moment's warning, their respective proportions of one hundred thousand militia, officers included, by virtue of an act of congress, passed the 10th instant, entitled, "An act to authorize a detachment from the militia of the United States."

This, therefore, is to require your excellency to take effectual measures for having ten thousand of the militia of Massachusetts (being her quota), detached and duly organized in companies, battalions, regiments, brigades, and divisions, within the shortest period that circumstances will permit, and as nearly as possible in the following proportions of artillery, cavalry, and infantry, viz. one twentieth part of artillery, one twentieth part of cavalry, and the residue infantry. There will, however, be no objection on the part of the president of the United States, to the admission of a proportion of riflemen duly organized in distinct corps, and not exceeding one tenth part of the whole quota of the states respectively. Each corps should be properly armed and equipped for actual service.

When the detachment and organization shall have been effected, the respective corps will be exercised under the officers set over them, but will not remain embodied, or be considered as in actual service, until by subsequent orders they shall be directed to take the field.

Your excellency will please to direct that correct muster rolls and inspection returns be made of the several corps, and that copies thereof be transmitted to this department as early as possible. I have the honour to be, &c.

(Signed) WM. EUSTIS.

His excellency the Governor of Massachusetts.

Sir, *War Department, June 12th*, 1812.

I am directed by the president to request your excellency to order into the service of the United States, on the requisition of major-general Dearborn, such part of the quota of militia from the state of Massachusetts, detached conformably to the act of April 10th, 1812, as he may deem necessary for the defence of the sea coast. I have the honour to be, &c.

(Signed) WM. EUSTIS.

His excellency Caleb Strong, Governor of Massachusetts.

Sir, *Head-Quarters, Boston, June 22d*, 1812.

I have received instructions from the president of the United States to call on your excellency for such part of the quota of militia from the state of Massachusetts, detached conformably to the act of congress, of April the 10th, 1812, as I may deem necessary for the defence of the sea coast; and I now have the honor of requesting your excellency to order fourteen companies of artillery, and twenty-seven companies of infantry, into the service of the United States, for the defence of the ports and harbours in this state, and the harbour of Newport. The com-

panies are intended for the following ports and harbours, viz. Passamaquoddy, 1 company of artillery, and 4 companies of infantry, with a full complement of officers, to be commanded by a major. Marblehead, Salem, Cape Ann, and Newburyport, 2 companies of artillery, and 2 companies of infantry. Boston, 4 companies of artillery, and 8 companies of infantry, with one lieutenant colonel commandant, and one major; and 8 companies of infantry for the defence of Rhode Island.

Having received official information that war has been declared by congress against Great Britain, your excellency will perceive the expediency of giving facility to such measures as the crisis demands; and as the defence of the sea coast of New-England is at present confided to my direction, I shall, with confidence, rely on all the aid and support that the respective governors can afford, and more especially on that of the governor of the important state of Massachusetts; and I shall at all times receive, with the greatest pleasure, any advice or information that your excellency may be pleased to communicate.

With respectful consideration, I am, sir, your obedient servant,

H. DEARBORN.

His excellency Caleb Strong, Governor of Massachusetts.

Omitted in the Above.

Machias, 1 company of artillery; Penobscot, 1 company of artillery, and 2 companies of infantry, to be commanded by a major. Wiscassett and Damariscotta, 2 companies of artillery, *one each.* Kennebunk, 1 company of artillery. Portland, 2 companies of artillery, and 3 companies of infantry, to be commanded by a major.

Sir, *Boston, June* 26, 1812.

Not having received any notice from your excellency or the adjutant general, of what measures have been taken for calling into the service of the United States, for the defence of our sea coast, the companies of detached militia proposed in a note I had the honour of addressing to your excellency on the 22d instant, a sense of duty compels me to solicit such information on the subject as the urgency of the case demands; and I am persuaded that no unnecessary delay will disappoint my anxious desire for as early information as circumstances will admit.

With great respect, &c.

(Signed) H. DEARBORN.

His excellency Caleb Strong, &c.

Sir, *Boston, June, 26, 1812.*

I have received your letter of this day, in which you request information of the measures which have been taken for calling the militia into the service of the United States.

I find that governor Gerry, on the 25th of April last, ordered that ten thousand men should be detached from the militia of this state; but I am informed by the adjutant-general, that the returns of those detachments have not come to hand, except in a very few instances.

I am, sir, with great respect, your most obedient servant,

CALEB STRONG.

To major general Dearborn.

Sir, *War Department, July 21, 1812.*

By information received from major general Dearborn, it appears that the detachments from the militia of Massachusetts, for the defence of the maritime frontier, required by him under the authority of the president, by virtue of the act of the 10th of April, 1812, have not been marched to the several stations assigned them.

Inasmuch as longer delay may be followed with distress to a certain portion of our fellow-citizens, and with injurious consequences to our country, I am commanded by the president to inform your excellency, that this arrangement of the militia was preparatory to the march of the regular troops to the northern frontier. The exigencies of the service have required, and orders have accordingly been given to major general Dearborn to move the regular troops to that frontier, leaving a sufficient number to man the guns in the garrisons on the sea board. The execution of this order increases, as your excellency cannot fail to observe, the necessity of hastening the detached militia to their several posts as assigned by general Dearborn; in which case they will of course be considered in the actual service and pay of the United States.

The danger of invasion, which existed at the time of issuing the order of the president, increases, and I am specially directed by the president to urge the consideration to your excellency, as requiring the necessary order to be given for the immediate march of the several detachments specified by general Dearborn, to their respective posts. I have the honour to be, &c.

(Signed) W. EUSTIS.

His excellency Caleb Strong, governor of Massachusetts.

Sir, *Boston, 5th August, 1812.*

I received your letter of the 21st July, when at Northampton, and the next day came to Boston. The people of this state

appear to be under no apprehension of an invasion. Several towns indeed on the sea coast, soon after the declaration of war, applied to the governor and council for arms and ammunition similar to the articles of that kind which had been delivered to them by the state in the course of the last war, and in some instances they were supplied accordingly. But they expressed no desire that any part of the militia should be called out for their defence, and in some cases we were assured such a measure would be disagreeable to them.

You observe in your last letter that the danger of invasion, which existed at the time of issuing the order of the president, increases. It would be difficult to infer from this expression, that in your opinion that danger is now very considerable, as the president's order must have been issued before war was declared, your former letter being dated the 12th of June, and general Dearborn's, who was then at Boston, on the 22d of that month. Besides, it can hardly be supposed that if this state had been in great danger of invasion, the troops would have been called from hence to carry on offensive operations in a distant province. However, as it was understood that the governor of Nova-Scotia had by proclamation forbid any incursions or depredations upon our territories, and as an opinion generally prevailed that the governor had no authority to call the militia into actual service, unless one of the exigencies contemplated by the constitution exists, I thought it expedient to call the council together, and having laid before them your letter, and those I had received from general Dearborn, I requested their advice on the subject of them.

The council advised, "that they are unable from a view of the constitution of the United States, and the letters aforesaid, to perceive that any exigency exists which can render it adviseable to comply with the said requisition. But as upon important questions of law, and upon solemn occasions, the governor and council have authority to require the opinion of the justices of the supreme judicial court, it is adviseable to request the opinion of the supreme court upon the following questions:

1st. Whether the commanders in chief of the militia of the several states have a right to determine whether any of the exigencies contemplated by the constitution of the United States exist, so as to require them to place the militia, or any part of it, in the service of the United States at the request of the president, to be commanded by him pursuant to acts of congress?

2d. Whether, when either of the exigencies exist, authorizing the employing of the militia in the service of the United States, the militia thus employed can be lawfully commanded by

Sir, *Boston, June, 26, 1812.*

I have received your letter of this day, in which you request information of the measures which have been taken for calling the militia into the service of the United States.

I find that governor Gerry, on the 25th of April last, ordered that ten thousand men should be detached from the militia of this state; but I am informed by the adjutant-general, that the returns of those detachments have not come to hand, except in a very few instances.

I am, sir, with great respect, your most obedient servant,

CALEB STRONG.

To major general Dearborn.

Sir, *War Department, July 21, 1812.*

By information received from major general Dearborn, it appears that the detachments from the militia of Massachusetts, for the defence of the maritime frontier, required by him under the authority of the president, by virtue of the act of the 10th of April, 1812, have not been marched to the several stations assigned them.

Inasmuch as longer delay may be followed with distress to a certain portion of our fellow-citizens, and with injurious consequences to our country, I am commanded by the president to inform your excellency, that this arrangement of the militia was preparatory to the march of the regular troops to the northern frontier. The exigencies of the service have required, and orders have accordingly been given to major general Dearborn to move the regular troops to that frontier, leaving a sufficient number to man the guns in the garrisons on the sea board. The execution of this order increases, as your excellency cannot fail to observe, the necessity of hastening the detached militia to their several posts as assigned by general Dearborn; in which case they will of course be considered in the actual service and pay of the United States.

The danger of invasion, which existed at the time of issuing the order of the president, increases, and I am specially directed by the president to urge the consideration to your excellency, as requiring the necessary order to be given for the immediate march of the several detachments specified by general Dearborn, to their respective posts. I have the honour to be, &c.

(Signed) W. EUSTIS.

His excellency Caleb Strong, governor of Massachusetts.

Sir, *Boston, 5th August, 1812.*

I received your letter of the 21st July, when at Northampton, and the next day came to Boston. The people of this state

appear to be under no apprehension of an invasion. Several towns indeed on the sea coast, soon after the declaration of war, applied to the governor and council for arms and ammunition similar to the articles of that kind which had been delivered to them by the state in the course of the last war, and in some instances they were supplied accordingly. But they expressed no desire that any part of the militia should be called out for their defence, and in some cases we were assured such a measure would be disagreeable to them.

You observe in your last letter that the danger of invasion, which existed at the time of issuing the order of the president, increases. It would be difficult to infer from this expression, that in your opinion that danger is now very considerable, as the president's order must have been issued before war was declared, your former letter being dated the 12th of June, and general Dearborn's, who was then at Boston, on the 22d of that month. Besides, it can hardly be supposed that if this state had been in great danger of invasion, the troops would have been called from hence to carry on offensive operations in a distant province. However, as it was understood that the governor of Nova-Scotia had by proclamation forbid any incursions or depredations upon our territories, and as an opinion generally prevailed that the governor had no authority to call the militia into actual service, unless one of the exigencies contemplated by the constitution exists, I thought it expedient to call the council together, and having laid before them your letter, and those I had received from general Dearborn, I requested their advice on the subject of them.

The council advised, "that they are unable from a view of the constitution of the United States, and the letters aforesaid, to perceive that any exigency exists which can render it adviseable to comply with the said requisition. But as upon important questions of law, and upon solemn occasions, the governor and council have authority to require the opinion of the justices of the supreme judicial court, it is adviseable to request the opinion of the supreme court upon the following questions:

1st. Whether the commanders in chief of the militia of the several states have a right to determine whether any of the exigencies contemplated by the constitution of the United States exist, so as to require them to place the militia, or any part of it, in the service of the United States at the request of the president, to be commanded by him pursuant to acts of congress?

2d. Whether, when either of the exigencies exist, authorizing the employing of the militia in the service of the United States, the militia thus employed can be lawfully commanded by

any officer but of the militia, except by the president of the United States?"

I enclose a copy of the answers given by the judges to these questions. Since the council were called, a person deputed by the towns of Eastport and Robinston, on our eastern boundary at Passamaquoddy, applied to me, representing that they had no apprehensions of an invasion by an authorized British force, but that there were many lawless people on the borders from whom they were in danger of predatory incursions, and requesting that they might be furnished with some arms and ammunition, and that three companies of militia might be called out for their protection. The council advised that they should be supplied with such arms and ammunition as were necessary for their present defence, which has been ordered. They also advised me to call into the service of the United States three companies of the detached militia for the purposes above mentioned. I have this day issued an order for calling out three companies of the detached militia, to be marched forthwith to Passamaquoddy, and to be commanded by a major; two of the companies will be stationed at Eastport, and one company at Robinston, until the president shall otherwise direct.

I have no intention officiously to interfere in the measures of the general government; but if the president was fully acquainted with the situation of this state, I think he would have no wish to call our militia into service in the manner proposed by general Dearborn.

It is well known that the enemy will find it difficult to spare troops sufficient for the defence of their own territory, and predatory incursions are not likely to take place in this state; for at every point, except Passamaquoddy, which can present no object to those incursions, the people are too numerous to be attacked by such parties as generally engage in expeditions of that kind.

General Dearborn proposed that the detached militia should be stationed at only a few of the ports and places on the coast: from the rest a part of their militia were to be called away. This circumstance would increase their danger: it would invite the aggressions of the enemy, and diminish their power of resistance.

The whole coast of Cape Cod is exposed as much as any part of the state to depredations. Part of the militia must, according to this detaching order, be marched from their homes, and yet no place in the old colony of Plymouth is assigned to be the rendezvous of any of the detached militia.

Every harbour or port within the state has a compact settlement, and generally the country around the harbours is populous. The places contemplated in general Dearborn's specification as the rendezvous of the detached militia, excepting in one or two instances, contain more of the militia than the portion of the detached militia assigned to them. The militia are well organized, and would undoubtedly prefer to defend their firesides in company with their friends under their own officers, rather than to be marched to some distant place, while strangers might be introduced to take their places at home.

In Boston the militia are well disciplined, and could be mustered in an hour upon any signal of an approaching enemy; and in six hours the neighbouring towns would pour in a greater force than any invading enemy will bring against it. The same remark applies to Salem, Marblehead, and Newburyport; places whose harbours render an invasion next to impossible. In all of them there are, in addition to the common militia, independent corps of infantry and artillery, well disciplined and equipped, and ready, both in disposition and means, to repair to any place where invasion may be threatened, and able to repel it, except it should be made by a fleet of heavy ships, against which nothing perhaps but strong fortifications, garrisoned by regular troops, would prove any defence, until the enemy should land, when the entire militia would be prepared to meet them.

Kennebunk is unassailable by any thing but boats, which the numerous armed population is competent to resist. Portland has a militia and independent corps sufficiently numerous for its defence, and the same is the case with Wiscassett and Castine.

Against predatory incursions the militia of each place would be able to defend their property, and in a very short time they would be aided, if necessary, by the militia of the surrounding country. In case of a more serious invasion, whole brigades or divisions could be collected seasonably for defence. Indeed, considering the state of militia in this commonwealth, I think there can be no doubt that detaching a part of it, and distributing it into small portions, will tend to impair the defensive power.

I have thus freely expressed to you my own sentiments, and, so far as I have heard, they are the sentiments of the best informed men. I am fully disposed to afford all the aid to the measures of the national government which the constitution requires of me; but I presume it will not be expected or desired that I shall fail in the duty which I owe to the people of this state, who have confided their interests to my care.

I am, sir, with respect, your most obedient and humble servant,

CALEB STRONG.

Honourable W. Eustis, Secretary of War.

To his Excellency the Governor, and the Honourable the Council of the Commonwealth of Massachusetts.

The undersigned justices of the supreme judicial court, have considered the questions proposed by your excellency and honours for their opinion.

By the constitution of this state, the authority of commanding the militia of the commonwealth is vested exclusively in the governor, who has all the powers incident to the office of commander in chief, and is to exercise them personally, or by subordinate officers under his command, agreeably to the rules and regulations of the constitution, and the laws of the land.

While the governor of the commonwealth remained in the exercise of these powers, the federal constitution was ratified, by which was vested in the congress a power to provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions, and to provide for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers.

The federal constitution further provides, that the president shall be commander in chief of the army of the United States, and of the militia of the several states when called into the actual service of the United States.

On the construction of the federal and state constitutions must depend the answers to the several questions proposed. As the militia of the several states may be employed in the service of the United States for the three specific purposes of executing the laws of the union, of suppressing insurrections, and of repelling invasions, the opinion of the judges is requested, whether the commanders in chief of the militia of the several states have a right to determine whether any of the exigencies aforesaid exist, so as to require them to place the militia, or any part of it, in the service of the United States, at the request of the president, to be commanded by him pursuant to acts of congress.

It is the opinion of the undersigned that this right is vested in the commanders in chief of the militia of the several states.

The federal constitution provides, that whenever either of these exigencies exist, the militia may be employed, pursuant to some act of congress, in the service of the United States; but no power is given either to the president or to the congress to determine that either of the said exigencies do in fact exist. As this power is not delegated to the United States by the federal constitution, nor prohibited by it to the states, it is reserved to the states respectively; and from the nature of the power, it must be exercised by those with whom the states have respectively entrusted the chief command of the militia.

It is the duty of these commanders to execute this important trust agreeably to the laws of their several states respectively, without reference to the laws or officers of the United States, in all cases except those specially provided in the federal constitution. They must therefore determine when either of the special cases exist, obliging them to relinquish the execution of this trust, and to render themselves and the militia subject to the command of the president. A different construction, giving to congress the right to determine when these special cases exist, authorizing them to call forth the whole of the militia, and taking them from the commanders in chief of the several states, and subjecting them to the command of the president, would place all the militia, in effect, at the will of congress, and produce a military consolidation of the states, without any constitutional remedy, against the intentions of the people when ratifying the constitution. Indeed since passing the act of congress of February 28th, 1795, C. 101, vesting in the president the power of calling forth the militia when the exigencies mentioned in the constitution shall exist, if the president has the power of determining when those exigencies exist, the militia of the several states is in effect at his command, and subject to his controul.

No inconveniences can reasonably be presumed to result from the construction which vests in the commanders in chief of the militia in the several states the right of determining when the exigencies exist, obliging them to place the militia in the service of the U. States. These exigencies are of such a nature that the existence of them can be easily ascertained by, or made known to the commander in chief of the militia, and when ascertained, the public interest will produce prompt obedience to the acts of congress.

Another question proposed to the consideration of the judges is, whether, when either of the exigencies exist authorizing the employing of the militia in the service of the United States, the militia thus employed can be lawfully commanded by any officer but of the militia, except by the president of the United States.

The federal constitution declares that the president shall be commander in chief of the army of the United States. He may undoubtedly exercise this command by officers of the army of the United States, by him commissioned according to law. The president is also declared to be the commander in chief of the militia of the several states, when called into the actual service of the United States. The officers of the militia are to be appointed by the states, and the president may exercise his command of the militia by officers of the militia duly appointed. But

we know of no constitutional provision authorizing any officer of the army of the United States to command the militia, or authorizing any officer of the militia to command the army of the United States. The congress may provide laws for the government of the militia when in actual service, but to extend this power to the placing them under the command of an officer not of the militia, except the president, would render nugatory the provision, that the militia are to have officers appointed by the states.

The union of the militia, in the actual service of the United States, with troops of the United States, so far as to form one army, seems to be a case not provided for or contemplated in the constitution. It is therefore not within our department to determine on whom the command would devolve on such an emergency, in the absence of the president. Whether one officer, either of the militia or of the army of the United States, to be settled according to military rank, should command the whole; whether the corps must be commanded by their respective officers, acting in concert as allied forces, or what other expedient should be adopted, are questions to be answered by others.

The undersigned regret that the distance of the other justices of the supreme judicial court, renders it impracticable to obtain their opinions, seasonably, upon the questions submitted.

THEOPHILUS PARSONS.
SAMUEL SEWALL.
ISAAC PARKER.

Sir, *Boston, August* 21, 1812.

I mentioned in my letter to you of the 5th of August, that I had that day issued an order for calling out three companies of the detached militia, to be marched immediately to Passamaquoddy, for the defence of that frontier, and to be commanded by a major. In my instructions to major-general Sewall, to be communicated to the major to be designated by him, I directed that two of the companies should be stationed at Eastport, and one company at Robinston, until the president should direct otherwise; unless in the mean time, the major, with the advice of brigadier general Brewer, who lives at Robinston, and to whom I wrote on the subject, should think a different disposition of the companies would be more advantageous.

I have this day received a letter from general Sewall, dated the 17th instant, in which he says, that he had designated the detached company in the neighborhood of Eastport, under the command of captain Thomas Vose, junior, of Robinston; the detached company in the interior neighbourhood of Penobscot

river, under the command of captain Joshua Chamberlain, of Orrington; and the detached company in the same neighbourhood, under the command of captain Thomas George, of Brewer, to form a battalion, to be commanded by major Nathan Low, of Deer Isle, and directed them to march immediately to Eastport, and that they would probably march the next day. I shall immediately write to major Low, and direct him to conform to the above instructions in disposing of the companies, until the president of the United States shall otherwise direct.

I am, sir, with respect, your most obedient servant,

(Signed) CALEB STRONG.

Honourable William Eustis, Secretary of War.

Sir, *Northampton, Sept.* 10, 1812.

I received this morning a letter from major general Sewall, dated the 1st of this month, in which he mentions that the detached troops from the neighbourhood of Penobscot, had marched to Eastport five or six days before that time, with their adjutant and quartermaster; but that major Low, who was appointed to command them, had been released from that service, on account of bodily infirmity; and that major Jacob Ulmer, of Lincolnville, was appointed in his room, and had been notified to proceed immediately to Eastport.

General Sewall observes, that application had been made to him for the appointment of a commissary and surgeon for the post at Eastport, and if those appointments, or either of them, are thought necessary, he proposes Mr. Chevy, an officer in the artillery, for the former, and Dr. Baxtow, a surgeon in the militia, for the latter, both inhabitants of Eastport.

I am, sir, with sentiments of respect, &c.

(Signed) CALEB STRONG.

Honourable William Eustis, Secretary of War.

(Circular.)

Sir, *War Department, April 15th*, 1812.

I am instructed by the president of the United States to call upon the executives of the several states, to take effectual measures to organize, arm, and equip, according to law, and hold in readiness to march at a moment's warning, their respective proportions of one hundred thousand militia, officers included, by virtue of an act of congress, passed the 10th instant, entitled, "An act to authorize a detachment from the militia of the United States."

This, therefore, is to require your excellency to take effectual measures for having three thousand of the militia of Connecticut (being her quota), detached and duly organized in com-

panies, battalions, regiments, brigades, and divisions, within the shortest period that circumstances will permit, and as nearly as possible in the following proportions of artillery, cavalry, and infantry, viz. one twentieth part of artillery, one twentieth part of cavalry, and the residue infantry. There will, however, be no objection on the part of the president of the United States, to the admission of a proportion of riflemen duly organized in distinct corps, and not exceeding one tenth part of the whole quota of the states respectively. Each corps should be properly armed and equipped for actual service.

When the detachment and organization shall have been effected, the respective corps will be exercised under the officers set over them, but will not remain embodied, or be considered as in actual service, until by subsequent orders they shall be directed to take the field.

Your excellency will please to direct that correct muster rolls and inspection returns be made of the several corps, and that copies thereof be transmitted to this department as early as possible. I have the honour to be, &c.

(Signed) W. EUSTIS.

His excellency Roger Griswold, Governor of Connecticut.

Sir, *Lyme, April 20th*, 1812.

I had the honour, this morning, to receive your letter of the 15th inst. containing the directions of the president of the United States, for detaching three thousand of the militia of this state, agreeably to the provisions of the act of congress of the 10th inst. The act itself has not been received, and it will be very satisfactory to me to receive a copy of it, by the next mail, from your department. In the mean time every preparation will be made for detaching the officers and men agreeably to the directions already received.

I have the honour to be, with great respect, your obedient and very humble servant,

(Signed) ROGER GRISWOLD.

Hon. the Secretary of War.

Sir, *War Department, June 12th*, 1812.

I am directed by the president to request your excellency to order into the service of the United States, on the requisition of major-general Dearborn, such part of the quota of militia from the state of Connecticut, detached conformably to the act of April 10th, 1812, as he may deem necessary for the defence of the sea coast. I have the honour to be, &c.

(Signed) WM. EUSTIS.

His excellency Roger Griswold, Governor of Connecticut.

Sir, *Lyme, June 17th*, 1812.

I have had the honour, this afternoon, to receive your letter of the 12th instant, communicating to me the request of the president, that I would order into the service of the United States, on the requisition of major general Dearborn, such part of the quota of militia from the state of Connecticut, detached conformably to the act of congress of April 10th, 1812, as he may deem necessary for the defence of the sea coast.

In obedience to which request, I shall, on the requisition of general Dearborn, execute without delay, the request of the president.

With great respect, I have the honour to be, your obedient servant, (Signed) ROGER GRISWOLD.

Honourable Wm. Eustis, Secretary of War.

Sir, *Sharon, Connecticut, July 2d*, 1812.

His excellency governor Griswold has received from major general Henry Dearborn, a letter under date of the 22d of last month, requesting that five companies of the militia of this state, detached conformably to the act of congress of April 10th, 1812, may be ordered into the service of the United States, to wit: "two companies of artillery, and two companies of infantry, to be placed under the command of the commanding officer at fort Trumbull, near New London, and one company of artillery, to be stationed at the battery at the entrance of the harbour of New Haven."

Impressed with the deep importance of the requisition, and the serious considerations it involves, his excellency deemed it expedient to convene the council at Hartford, on Monday, the 29th ultimo. He has taken their advice upon this interesting subject, and has formed his own deliberate opinion; but as he is under the necessity of leaving the state on a journey for the recovery of his health, it becomes my duty, as lieutenant governor, to communicate to you the result.

The assurance contained in the governor's letter of the 17th June last, in answer to yours of the 12th of the same month, was necessarily given in full confidence, that no demand would be made by general Dearborn, but in strict conformity to the constitution and laws of the United States. His excellency regrets to perceive that the present requisition is supported by neither.

The constitution of the United States has ordained, that congress may "provide for calling forth the militia, *to execute the laws of the Union, suppress insurrections, and repel invasions.*"

Accordingly the acts of congress of February, 1795, and of

April, 1812, do provide for calling forth the militia "in the exigencies" above mentioned. The governor is not informed of any declaration made by the president of the United States, or of notice by him given that the militia are required "to execute the laws of the union, suppress insurrections, or repel invasions," or that "the United States are in imminent danger of invasion." As, therefore, none of these contingencies enumerated in the constitution, and recognized by the laws, are shown to have taken place, his excellency considers that no portion of the militia of this state can, under existing circumstances, be withdrawn from his authority. Farther, if the call had been justified by either of the constitutional exigencies already recited, still, in the view of his excellency, an insuperable objection presents itself against placing the men *under the immediate command of an officer or officers of the army of the United States.*

The appointment of the officers of the militia, is by the constitution expressly reserved "to the states respectively." In the event of their being called into the actual service of the United States in the cases before specified, the laws of the United States provide for their being called forth *as militia*, furnished with proper officers by the state. And, sir, it will not escape your recollection, that the detachment from the militia of this state under the act of congress of the 10th of April last, is regularly organized into a division, consisting of brigades, regiments, battalions, and companies, and supplied conformably to law with all the necessary officers. His excellency conceives then, that an order to detach a number of companies sufficient for the command of a battalion officer, and place them under the command of an officer of the United States, cannot with propriety be executed, unless he were also prepared to admit that the privates may be separated from their company officers, and transferred into the army of the United States; thus leaving the officers of the militia without any command except *in name*, and in effect impairing, if not annihilating, the militia itself, so sacredly guaranteed by the constitution to the several states. Under these impressions the governor has thought proper, by and with the advice of the council, to refuse a compliance with the requisition of major general Dearborn.

His excellency is sincerely disposed to comply promptly with all the constitutional requests of the national executive, a disposition which has ever been manifested by the government of this state, and he laments the occasion which thus compels him to yield obedience to the paramount authority of the constitution and laws of the United States. He trusts the general government will speedily provide an adequate force for the security

and protection of the sea coast. In the mean time his excellency has issued the necessary orders to the general officers commanding the militia in that quarter, to be in readiness to repel any invasion which may be attempted upon that portion of the state, and to co-operate with such part of the national forces as shall be employed for the same purpose.

With great respect, I have the honour to be, sir, your obedient and very humble servant,

(Signed) JOHN COTTON SMITH.

To the Hon. Wm. Eustis, Secretary of War.

Sir, *War Department, July 14th*, 1812.

I have the honour to acknowledge your letter of the 2d inst.—The absence of his excellency governor Griswold, on account of ill health, is seriously to be regretted, particularly at this important crisis, when his prompt assurances of obeying the requisition of the president, to call into the service of the United States, such detachments of militia as might be required, conformably to the act of April 10, 1812, through general Dearborn, are interrupted and suspended by your honour.

The reason assigned for refusing to execute the engagements of his excellency governor Griswold, appears not less extraordinary than the act itself. After a declaration of war against a nation possessed of a powerful and numerous fleet, a part of which were actually on our coast, had been promulgated, and officially communicated to the executive of the state, the assertion made by your honour, " that the governor is not informed that the United States are in imminent danger of invasion," was not to have been expected. To remove all doubts from your mind on this subject, I am instructed by the president to state to you, that such danger actually exists ; and to request that the requisition of general Dearborn, made by his special authority, for calling into the service of the United States certain detachments of militia, from the state of Connecticut, be forthwith carried into effect.

The right of the state to officer the militia, is clearly recognized in the requisition of general Dearborn. The detachments, when marched to the several posts assigned them, with their proper officers, appointed conformably to the laws of the state, will command, or be commanded, according to the rules and articles of war, and the usages of service.

Very respectfully, &c.

(Signed) W. EUSTIS.

His Honour John C. Smith, Lieutenant Governor of the State of Connecticut.

Sir, *Lyme, August 13th*, 1812.

His honour governor Smith has put into my hands your letter of the 14th July, and it is with surprize I notice the construction you have put on my letter of the 17th of June. The unusual and exceptionable terms also, in which your letter is expressed, have not escaped notice. But a regard to the propriety of my own conduct, will not allow me to descend to any comments upon its particular expressions, but leaves me to perform my duty to the general government, by giving the explanation which appears proper.

When you communicated the request of the president, that any future requisition from general Dearborn, for a part of the drafted militia, might be complied with, it remained uncertain whether such a requirement would be made, or, if made, under what circumstances it might take place.

Confident, however, that the president would authorise no requisition which was not strictly constitutional, and particularly that the order would not exceed the conditions of the act of the 10th of April, to which you had referred, I had no hesitation in giving a general assurance, that the requisitions which the president might make through general Dearborn would be complied with. I then thought, as I do still, that decency, and a due respect to the first magistrate of the union, required that my assurance should be general, and no expression should be used, which might imply a suspicion that the president would violate the constitution in his orders. I also expected that this early and general declaration would be considered as evidence of a disposition, which has been uniformly felt in this state, to execute every constitutional requisition from the general government.

In what light, however, my expressions have been viewed, I trust there will be no future misconstruction, when I assure you, that I neither intended nor expected to be understood by the general language of my letter, or any expression it contained, to give the smallest assurance, that I would execute any order, which I judged repugnant to the constitution, from whatever source it might emanate.

The light in which I have viewed the order from general Dearborn, has been already communicated by governor Smith; and it is only proper to add, that my opinion has not changed, but is confirmed by the unanimous opinions of the council of the state.

The new light in which you have presented the subject in your letter to governor Smith, has received every attention, but

still my opinion remains the same. The war which has commenced, and the cruising of a hostile fleet on our coast, is not invasion: and the declaration of the president, that there is imminent danger of invasion, is evidently a consequence drawn from the facts now disclosed, and is not in my opinion warranted by those facts. If such consequences were admitted to result from a declaration of war with a European power, it would follow, that every war of that character would throw the militia into the hands of the national government, and strip the states, of the important right reserved to them. In addition to the foregoing facts, it is proper for me further to observe, that I have found it difficult to fix in my mind the meaning of the words, "*imminent danger of invasion*," used by congress in the act of the 28th of Feb. 1795, and now repeated in your letter, as no such expression is contained in that part of the constitution which authorises the president to call the militia into service. Presuming, however, that some definite meaning thought consistent with the constitution, was at the time annexed to the expression, I have rather inferred that the legislature must have intended only to include an extreme case, where an enemy had not passed the line of the United States, but were evidently advancing in force to invade our country. Such a case would undoubtedly come within the spirit of the constitution, although it might not be included in its literal expression.

But whether the congress, in 1795, were justified in the expression or not, is unimportant, there being no difficulty, in the present case, as none of the facts disclosed furnish any thing more than a slight danger of invasion, which the constitution could not contemplate, and which might exist even in times of peace.

While I regret this difference of opinion on a question of such importance, I do not doubt that the president will do me the justice to believe that a sense of duty leaves me no other course to pursue, and that every means for the defence of the state will be speedily provided.

I have the honour to be, &c.

(Signed) ROGER GRISWOLD.

Hon. Wm. Eustis, &c.

Message from the President of the United States, communicating further information relative to the pacific advances made on the part of this Government to that of Great Britain.

To the Senate and House of Representatives of the United States.

For the further information of congress relative to the pacific advances made on the part of this government, to that of Great Britain, and the manner in which they have been met by the latter, I transmit the sequel of the communications on that subject, received from the late charge d'affaires at London.

JAMES MADISON.

November 12*th*, 1812.

Mr. Russell to Mr. Monroe.

Sir, *London*, 19*th Sept.* 1812.

On the 12th instant I received your letter of July last, and the copies of my note to lord Castlereagh and of his lordship's reply, enclosed herein, will inform you that the propositions made in consequence of it have been rejected.

As I have but this moment heard of the immediate departure of the Friends, I have time only to add that I have received the communications of Mr. Graham of the 9th and 10th of August by the Gleaner, and that I leave London this evening to embark on board the Lark, at Plymouth, for New York.

I am, with great respect and consideration, sir, your faithful and obedient servant,

(Signed) JONA. RUSSELL.

An interesting interview took place between Lord Castlereagh and myself on the 16th instant; the account of which I must, for want of time, reserve until I have the honour to see you.

Mr. Russell to Lord Castlereagh.

[Private.]

My Lord, 18 *Bentinck street*, 12*th Sept.* 1812.

In consequence of additional instructions which I received from my government this morning, I called about noon at the Foreign Office, and found with regret that your lordship was out of town. My object was to communicate to your lordship the powers under which I act, that you might perceive their validity and extent. I have, however, sought to state them substantially, in the official letter which I have herewith the honour to transmit to your lordship; but should you find any thing that stands in need of explanation, previous to being submitted to his royal highness, I shall remain at 18 Bentinck street, to receive the commands of your lordship. If your lordship could, in

courtesy, find any motive in my personal convenience to hasten a decision upon the propositions which I have submitted, the season of the year, my anxiety to depart (all my arrangements being made, all my luggage having left town), and the detention of the Lark at much expense, will plead powerfully in my favour.

I have the honour, &c.

(Signed) JONA. RUSSELL.

Mr. Russell to Lord Castlereagh.

My Lord, 18 *Bentinck Street*, 12*th Sept.* 1812.

I hasten, authorised by instruction, recently received from the government of the United States, and urged by an unfeigned anxiety to arrest the calamities of war, to propose to your lordship a convention for the suspension of hostilities, to take effect at such time as may be mutually agreed upon; and stipulating that each party shall forthwith appoint commissioners with full power to form a treaty, which shall provide, by reciprocal arrangements, for the security of their seamen from being taken or employed in the service of the other power, for the regulation of their commerce, and all other interesting questions now depending between them, and that the armistice shall not cease without such previous notice by one to the other party, as may be agreed upon, and shall not be understood as having any other effect than merely to suspend military operations by land and by sea.

In proposing to your lordship these terms for a suspension of hostilities, I am instructed to come to a clear and distinct understanding with his Britanic majesty's government, without requiring it to be formal, concerning impressment, comprising in it the discharge of the citizens of the United States already impressed; and concerning future blockades, the revocation of the orders in council being confirmed.

Your lordship is aware that the power of the government of the United States to prohibit the employment of British seamen must be exercised in the sense and spirit of the constitution; but there is no reason to doubt but that it will be so exercised effectually, and with good faith.

Such a measure as it, might, by suitable regulations and penalties, be made completely effectual and satisfactory, would operate almost exclusively in favour of Great Britain, for as few American seamen ever enter voluntarily into the British service, the reciprocity would be nominal, and it is sincerely believed that it would be more than an equivalent for any advantage she may derive from impressment.

By the proposition which I have now the honour to make in behalf of my government, your lordship will perceive the earnest desire of the president to remove every obstacle to an accommodation, which consists merely of form; and to secure the rights and interests of the United States in a manner the most satisfactory and honourable to Great Britain as well as to America.

The importance of the overture now made, will, I trust, obtain for it the early consideration of his royal highness the prince regent, and I shall detain the vessel in which I have taken my passage to the United States until I have the honour to learn his decision. I have the honour to be, &c.

(Signed) JONA. RUSSELL.

Mr. Hamilton to Mr. Russell.

Dear Sir, *Foreign Office, Sept.* 16, 1812.

I have not seen lord Castlereagh, since his receipt of your two letters of the but have received his directions to say to you, that he is concerned that he cannot have it in his power to reply to them for a few days; or would have had much pleasure in attending immediately to your request in that respect. You may be assured that no delay will take place, which can be avoided. I am, dear sir, faithfully yours,

(Signed) WM. HAMILTON.

Jona. Russell, Esq. &c.

Mr. Russell to Mr. Hamilton.

Dear Sir, *No.* 18 *Bentinck Street, Sept.* 16, 1812.

I have learnt with much regret and disappointment, that lord Castlereagh has directed you to inform me, that it is not in his power to give an immediate answer to the last letters, which I have had the honour to address to him. The object of those letters was of a nature to require an early decision. Reluctant, however, by any precipitancy on my part, to protract the present unhappy relations between the two countries, I beg you to acquaint his lordship, that I shall remain in town until Sunday, (the 20th instant,) when, unless some special and satisfactory reason be assigned for a longer delay, I shall consider it to be my duty to proceed to Plymouth to embark for the United States.

I am, dear sir, &c.

(Signed) JONA. RUSSELL.

William Hamilton, Esq. &c.

N. B. Sent at 3 o'clock.

(Copy.)

Lord Castlereagh presents his compliments to Mr. Russell,

and requests to have the honour of seeing him at his house in St. James' square, at nine o'clock this evening.

Foreign Office, September 16, 1812.

N. B. Received a little before 5 o'clock.

Lord Castlereagh to Mr. Russell.

Sir, *Foreign Office, Sept.* 18, 1812.

Under the explanations you have afforded me, of the nature of the instructions which you have received from your government, I have, as on the preceding occasion, been induced to lay your letter of the 12th instant, before his royal highness the prince regent.

His royal highness commands me to express to you his regret that he cannot perceive any substantial difference between the proposition for a suspension of hostilities, which you are now directed to make, and that which was contained in your letter of the 24th of August last. The form of the proposed arrangement, it is true, is different; but it only appears to aim at executing the same purpose, in a more covert, and, therefore, in a more objectionable manner.

You are now directed to require, as preliminary to a suspension of hostilities, a clear and distinct understanding, without, however, requiring it to be formal on all the points referred to in your former proposition; it is obvious, that were this proposal acceded to, the discussion on the several points must substantially precede the understanding required.

This course of proceeding, as bearing on the face of it a character of disguise, is not only felt to be in principle inadmissible, but as unlikely to lead in practice to any advantageous result, as it does not appear, on the important subject of impressment, that you are either authorised to propose any specific plan, with reference to which the suspension of that practice could be made a subject of deliberation, or that you have received any instructions for the guidance of your conduct on some of the leading principles, which such a discussion must in the first instance involve.

Under these circumstances the prince regent sincerely laments that he does not feel himself enabled to depart from the decision which I was directed to convey to you in my letter of the 2d instant. I have the honour, &c.

(Signed) CASTLEREAGH.

Jonathan Russell, Esq. &c.

Mr. Russell to Mr. Monroe.

Sir, *London*, 19*th September*, 1812.

Since writing you this morning, fearing that this government should infer from my silence, an acquiescence in the strange and unwarrantable view which lord Castlereagh has in his last note thought fit to take of the overtures which I have submitted, and of the powers under which I acted, I have considered it my duty to return an answer, of which the enclosed is a copy.

With great consideration and respect, I am, sir, &c.

(Signed) JONA. RUSSELL.

The honourable James Monroe, &c.

Mr. Russell to Lord Castlereagh.

(Copy.)

My Lord, *London*, 19*th September*, 1812.

I had the honour to receive last evening your lordship's note of yesterday, and have learnt with great regret and disappointment, that his royal highness the prince regent has again rejected the just and moderate propositions for a suspension of hostilities, which I have been instructed to present on the part of my government.

After the verbal explanations which I had the honour to afford your lordship on the 16th instant, both as to the object and sufficiency of my instructions, I did not expect to hear repeated any objections on these points. For itself, the American government has nothing to disguise, and by varying the proposition as to the manner of coming to a preliminary understanding, it merely intended to leave to the British government, that which might be most congenial to its feelings. The propositions presented by me, however, on the 24th August, and 12th instant, are distinguishable by a diversity in the substance, as well as in the mode of the object which they embraced; as by the former, the discontinuance of the practice of impressment was to be immediate, and to precede the prohibitory law of the United States, relative to the employment of British seamen; when by the latter both these measures are deferred to take effect simultaneously hereafter. Having made a precise tender of such law, and exhibited the instructions which warranted it to your lordship, I have learnt with surprise, that it does not appear to your lordship, that I am authorised to propose any specific plan on the subject of impressment. I still hope that the overtures made by me, may again be taken into consideration by his Britannic majesty's government, and as I leave town this afternoon for the United States, that it will authorise some agent to proceed

thither, and adopt them as a basis for reconciliation between the two countries, an event so devoutly to be wished.

I have the honour to be, &c.

(Signed) JONA. RUSSELL.

Mr. Russell to Mr. Monroe.

[Private.]

Sir, *On board the Lark, 7th November*, 1812.

I have the honour to inform you that I am now passing the Narrows, and expect to land at New York this day. I conceive it to be my duty to repair to the seat of government, and shall set off as soon as I can obtain my baggage. In the mean time I am sorry to inform you that the second proposition for an armistice was rejected like the first, and a vigorous prosecution of the war appears to be the only honourable alternative left to us.

I have the honour to be, with great consideration and respect, sir, your very obedient servant,

(Signed) JONA. RUSSELL.

Honourable James Monroe, &c. &c. &c.

Message from the President of the United States, transmitting copies of a communication from Mr. Russell to the Secretary of State, connected with the correspondence communicated by his message of the twelfth instant, relative to the pacific advances made on the part of this Government, to that of Great Britain.

To the Senate and House of Representatives of the United States.

I transmit to congress copies of a communication from Mr. Russell to the secretary of state. It is connected with the correspondence accompanying my message of the 12th instant, but had not at that date been received.

November 18*th*, 1812. JAMES MADISON.

Mr. Russell to Mr. Monroe.

Sir, *Washington*, 16*th Nov.* 1812.

I have the honour to hand you herewith an account of the conversation alluded to in a postscript to my letter of the 19th of September, and which I had not sufficient time then to copy.

I have the honour to be, with great consideration and respect, sir, your obedient servant,

(Signed) JONATHAN RUSSELL.

The Hon. James Monroe, &c. &c. &c.

Mr. Russel to the Secretary of State, dated

Sir, *London, Sept.* 17, 1812.

On the 12th instant, I had the honour to receive your letter of the 27th of July last. I called immediately at the Foreign Office to prepare lord Castlereagh, by imparting to him the nature and extent of my instructions, for the communication which it became me to make to him. His lordship was in the country, and I was obliged to write to him without previously seeing him. I however accompanied my official note (A*) with a private letter (B*), offering explanation, if required, and soliciting despatch.

I waited until 2 o'clock, the 16th instant, without hearing from his lordship, when I was much surprised at receiving a note (C*) from Mr. Hamilton, the under secretary, indefinitely postponing an official reply. To give more precision to the transaction, I instantly addressed to him an answer (D*), and a little before 5 o'clock, on the same day, I received an invitation (E*) from lord Castlereagh to meet him at his house that evening at 9 o'clock.

I waited on his lordship at the time appointed, and found him, in company with Mr. Hamilton, at a table loaded with the records of American correspondence, which they appeared to have been examining.

I was courteously received, and after a conversation of a few minutes on indifferent subjects, I led the way to the business on which I came, by observing that I had once more been authorised to present the olive branch, and hoped it would not be again rejected.

His lordship observed, that he had desired the interview to ascertain, before he submitted my communication of the 16th instant to the prince regent, the form and nature of the powers under which I acted. To satisfy him at once on both these points, I put into his hands your letter of the 27th July. I the more willingly adopted this mode of procedure, as, besides the confidence which its frankness was calculated to produce, the letter itself would best define my authority, and prove the moderation and conciliatory temper of my government.

His lordship read it attentively. He then commented at some length both on the shape and substance of my powers. With regard to the former he observed, that all my authority was contained in a letter from the secretary of state, which, as my diplomatic functions had ceased, appeared but a scanty foundation on which to place the important arrangement I had

* The notes referred to will be found at pages 76—78.

been instructed to propose. With regard to the extent of my powers, he could not perceive that they essentially differed from those under which I had brought forward the propositions contained in my note of the 24th of August. He considered that to enter with me into the understanding, required as a preliminary to a convention for an armistice, he would be compelled to act on unequal ground, as, from his situation, he must necessarily pledge his government, when, from the nature of my authority, I could give no similar pledge for mine. He could not therefore think of committing the British faith and leaving the American government free to disregard its engagements. Besides it did not appear to him, that, at the date of my last instructions, the revocation of the orders in council, on the 23d of June, had been received at Washington, and that great hopes were entertained of the favourable effect such intelligence would produce there. The question of impressment, he went on to observe, was attended with difficulties, of which neither I nor my government appeared to be aware. "Indeed," he continued, "there has evidently been much misapprehension on this subject, and an erroneous belief entertained that an arrangement, in regard to it, has been nearer an accomplishment than the facts will warrant. Even our friends in congress, I mean (observing perhaps some alteration in my countenance) those who were opposed to going to war with us, have been so confident in this mistake, that they have ascribed the failure of such an arrangement solely to the misconduct of the American government. This error probably originated with Mr. King, for, being much esteemed here, and always well received by the persons then in power, he seems to have misconstrued their readiness to listen to his representations and their warm professions of a disposition to remove the complaints of America, in relation to impressment, into a supposed conviction on their part of the propriety of adopting the plan which he had proposed. But lord St. Vincent, whom he might have thought he had brought over to his opinions, appears never for a moment to have ceased to regard all arrangement on the subject to be attended with formidable, if not insurmountable obstacles. This is obvious from a letter which his lordship addressed to sir William Scott at the time." Here lord Castlereagh read a letter, contained in the records before him, in which lord St. Vincent states to sir William Scott, the zeal with which Mr. King had assailed him on the subject of impressment, confesses his own perplexity and total incompetency to discover any practical project for the safe discontinuance of that practice, and asks for council and advice. "Thus you see," proceeded lord

Castlereagh, "that the confidence of Mr. King on this point was entirely unfounded."

The extreme difficulty, if not total impracticability of any satisfactory arrangement for the discontinuance of impressment, is most clearly manifested by the result of the negotiation carried on between Messrs. Monroe and Pinkney and lords Auckland and Holland. The doctrines of which these noblemen had been the advocates, when in opposition, bound them by all the force of consistency to do every thing under their commission for the satisfaction of America, relative to impressment, which the nature of the subject would possibly admit. There were many circumstances, on that occasion, peculiarly propitious to an amicable arrangement on this point, had such an arrangement been, at all, attainable. Both parties accordingly appear to have exhausted their ingenuity in attempting to devise expedients satisfactorily to perform the office of impressment; and nothing can more conclusively demonstrate the inherent difficulty of the matter, and the utter impossibility of finding the expedient which they sought, than that all their labours, pursued on that occasion with unexampled diligence, cordiality, and good faith, should have been in vain.

His lordship now turned to a letter in a volume before him, addressed at the close of the negotiation by these commissioners to the American ministers, conceived in the kindest spirit of conciliation, in which they profess the most earnest desire to remove all cause of complaint on the part of America, concerning impressment; regret that their endeavours had hitherto been ineffectual; lament the necessity of continuing the practice, and promise to provide as far as possible against the abuse of it.

"If," resumed his lordship, "such was the result of a negotiation entertained under circumstances so highly favourable, where the powers and the disposition of the parties were limited only by the difficulties of the subject, what reasonable expectation can be encouraged that, in the actual state of things, with your circumscribed and imperfect authority, we can come to a more successful issue? I shall have to proceed in so weighty a concern with the utmost deliberation and circumspection; and it will be necessary for me to consult the great law officers of the crown. You are not aware of the great sensibility and jealousy of the people of England on this subject; and no administration could expect to remain in power that should consent to renounce the right of impressment, or to suspend the practice, without the certainty of an arrangement which should obviously be calculated most unequivocally to secure its object.

Whether such an arrangement can be devised is extremely doubtful, but it is very certain that you have no sufficient powers for its accomplishment."

Such was the substance, and, in many parts, the language of his lordship's discourse. To which I replied, that the main object of my powers being to effect a suspension of hostilities, their form could not be material—it was sufficient that they emanated from competent authority, and were distinctly and clearly conferred. That in requiring as a condition to an armistice a clear understanding relative to impressment and other points of controversy between the two countries, it was intended merely to lay the basis of an amicable adjustment, and thereby to diminish the probability of a renewal of hostilities. To come to such an understanding, to be in itself informal, and which expressly left the details of the points which it embraced to be discussed and adjusted by commissioners to be hereafter appointed, was certainly within the instructions which I had received, and I could of course thus far pledge my government for its observance. I did not acknowledge the force of his objection, predicated on the inequality of our respective powers, nor perceive how the British faith would be particularly committed. The faith of both governments would be equally committed for whatever was done under their respective authority; and although his lordship might have power to go beyond the armistice and understanding for which I was instructed, yet there was no necessity for doing so; and while we acted within those limits we stood on equal ground. And were it otherwise, yet, as the promise of the one party would be the sole consideration for the promise of the other, should either fail in the performance of its engagements, the other would necessarily be discharged, and the imputation of bad faith could alone attach to the first delinquent. Nor was I dismayed at the very formidable difficulties with which he had thought proper to array the subject of impressment; and, although willing to acknowledge my inferiority to the American negotiators who had preceded me in the matter, yet I was not disposed on account of their failure to shrink from the discharge of a duty imposed on me by my government. To me indeed the whole question appeared much less alarming than his lordship had described it to be—and that if Mr. King had really been mistaken with regard to the near completion of an adjustment, his lordship must, on an attention to the *whole correspondence* at the time, acquit him from the imputation of any excessive want of penetration.

As to the supposed ignorance in America of the revocation of the orders in council, at the time my instructions were dated,

I observed, that if this ignorance did in fact exist, yet, from certain expressions in those instructions, an expectation of such a measure seems to have been confidently entertained, and the orders in council appeared no longer to form an obstacle to a reconciliation. However this might be, it ought not to be supposed that the American government would be ready to abandon one main point for which it contended, merely because it had obtained another which was generally considered to be of minor importance, and to submit to the continuance of impressment on account of the discontinuance of the orders in council. At any rate, having authorised me to propose terms of accommodation here, it would probably wait for information concerning the manner in which they had been received, before it would consent to more unfavourable conditions. In the mean time the war would be prosecuted, and might produce new obstacles to a pacific arrangement. I was happy to learn that the failure of a former negociation concerning impressment could not be ascribed to a want of sincerity and moderation in the American government, and I hoped the mode now suggested for securing to Great Britain her own seamen might remove the difficulties which had hitherto embarrassed this question. If the people of England were so jealous and sensitive with regard to the exercise of this harsh practice, what ought to be the feelings of the people of America, who were the victims of it? In the United States this practice of impressment was considered as bearing a strong resemblance to the slave trade; aggravated indeed, in some of its features, as the negro was purchased, already bereft of his liberty, and his slavery and exile were at least mitigated by his exemption from danger, by the interested forbearance of his task master, and the consciousness that, if he could no longer associate with those who were dear to him, he was not compelled to do them injury; while the American citizen is torn without price, at once, from all the blessings of freedom, and all the charities of social life, subjected to military law, exposed to incessant perils, and forced, at times, to hazard his life in despoiling or destroying his kindred and countrymen. It was matter of astonishment, that while Great Britain discovered such zeal for the abolition of the traffic in the barbarous and unbelieving natives of Africa, as to endeavour to force it on her reluctant allies, that she should so obstinately adhere to the practice of impressing American citizens, whose civilization, religion, and blood, so obviously demanded a more favourable distinction.

I next pointed out to his lordship, the difference between the propositions, which I now submitted, and those contained in my note of the 24th of August. That although the object of both

was essentially the same, there was great diversity in the manner of obtaining it. The discontinuance of the practice of impressment, which was before required to be immediate, and to constitute a formal preliminary to an armistice, was now deferred to commence cotemporaneously with the operation of the law of the United States, prohibiting the employment of British seamen, and was consigned, with the other conditions, to a separate and informal arrangement. In this way it was no doubt intended, by respecting the feelings of the British government, to obviate any objection which might have been the mere suggestion of its pride.

I finally offered, in order to answer at once all the observations and inquiries of lord Castlereagh, that the proposed understanding should be expressed in the most *general terms*—that the laws, to take effect on the discontinuance of *the practice* of impressment, should prohibit the employment of the *native* subjects or citizens of the one state, excepting such only as had already been naturalized, on board the private or public ships of the other; thus removing any objection that might have been raised with regard to the future effect of naturalization, or the formal renunciation of any pretended right. With regard to blockades, I proposed to follow the same course, and only to agree that none should be instituted by either party, which were not conformable to the acknowledged laws of nations, leaving the definition of such blockade, and all other details, to be settled by the commissioners in the definitive treaty.

I was disappointed and grieved to find that these propositions, moderate and liberal as they were, should be treated in a manner which forbid me to expect their acceptance. I was even asked by Mr. Hamilton, if the U. States would *deliver up* the native British seamen who might be naturalized in America. Although shocked at this demand, I mildly replied, that such a procedure would be disgraceful to America without being useful to Great Britain—that the habits of seamen were so peculiarly unaccommodating, that no one would patiently go through the long probation required by law, to become the citizen of a country where he could not pursue his professional occupations; and that not to employ him in this way would be virtually to surrender him to Great Britain.

I was disposed to believe, however, that a reciprocal arrangement might be made for giving up deserters from public vessels.

Here, perhaps, I owe an apology to my government for having, without its precise commands, hazarded the overture above mentioned, relative to British subjects who may hereafter be-

come citizens of the United States. In taking this step, however, I persuaded myself that I did not trespass against the spirit of the instructions which I had received; and had the proposition been accepted, I should not have been without all hope that it would have been approved by the president, as its prospective operation would have prevented injustice, and its reciprocity disgrace. Should I, however, urged by too great a zeal to produce an accommodation, have mistaken, herein, the intentions of the president, I still should have derived some consolation from reflecting, that this proposition, thus frankly and explicitly made, afforded an opportunity of satisfactorily testing the disposition of this government, and might be useful in removing much misconception and error. The refusal, indeed, of this proposition, sufficiently explains the view with which I was assailed with the ostentatious parade of the abortive negociations relative to impressment; the exaggeration of its pretended difficulties; the artificial solemnity given to its character; the affected sensibility to the popular sentiment concerning it; and the fastidious exceptions taken to my powers; and proves most unequivocally the predetermination of the British government to reject, at this time, every overture for the discontinuance of this degrading practice.

Most unfeignedly desiring to suspend the existing hostilities between the two states with a reasonable prospect of finally terminating them in a manner honourable to both, I perhaps pressed with too much earnestness the adoption of the arrangement which I was instructed to propose; for lord Castlereagh once observed, somewhat loftily, that if the American government was so anxious *to get rid of the war*, it would have an opportunity of doing so on learning the revocation of the orders in council. I felt constrained on this occasion to assure his lordship, that the anxiety of the American government, *to get rid of the war* was only a proof of the sincerity with which it had constantly sought to avoid it; but that no event had occurred, or was apprehended, to increase this anxiety. His lordship, correcting his manner, rejoined, that it was not his intention to say any thing offensive, but merely to suggest, that if the American government sincerely wished for a restoration of the friendly relations between the two countries, it would consider the revocation of the orders in council as affording a fair occasion for the attainment of that object. After a pause of a few moments, he added, that if the United States did not avail themselves of this occasion, not only to put an end to the war which they had declared, but to perform the conditions on which those orders were revoked, that the orders would, of course, revive. I could not

forbear to remind his lordship, that when I took this view of the subject, in my note of the 24th of August, he had found it to be *incorrect;* but I hoped that now I was so fortunate as to agree with him on this point, some provision would be made, in case the terms proposed for an armistice should be accepted, to prevent the revival of those edicts. His lordship attempted to explain, but I could not distinctly seize his meaning.

The conversation ended with an assurance on the part of his lordship, that he would, with as little delay as possible, communicate officially to me the decision of the prince regent; and I took my leave, forbidden to hope, that while the present councils and the present opinion of the American people prevail here, this decision will be favourable.

I have the honour to be, with great consideration and respect, sir, &c. &c.

(Signed) JONA. RUSSELL.

His excellency James Monroe, &c.

Message from the President of the United States, transmitting copies of a letter from the Consul General of the United States to Algiers, stating the circumstances preceding and attending his departure from that regency.

To the Senate and House of Representatives of the United States.

I transmit to congress copies of a letter from the consul general of the United States to Algiers, stating the circumstances preceding and attending his departure from that regency.

November 17*th*, 1812. JAMES MADISON.

Extract of a letter from Mr Lear, consul general at Algiers, to the Secretary of State.

On board the American ship Allegany, at sea, July 29*th*, 1812.

On the 17th inst. I had the honour to receive your respected favours of the 6th February and 29th of April, 1812, by capt. Ebenezer Eveleth, of the ship Allegany, which arrived at Algiers on that day, with the four new Mediterranean passports, 200 tops, and the several packages containing messages, reports, newspapers, &c. together with the letter of Richard Forrest, esq. covering the invoice and bill of lading of the ship Allegany sent from the United States with a cargo of naval and military stores for the regency of Algiers, in fulfilment of treaty stipulations.

I must delay replying to the particular points in your letter of the 29th April, until I shall have given an account of the most unexpected and extraordinary event which I believe has ever taken place, even in the extraordinary events of Algiers, in order that I may have it ready to transmit, in case I should meet any vessel bound to the United States.

On the arrival of the Allegany, the dey and the officers of the regency expressed the most entire and complete satisfaction; and until the 20th inst. when they began to discharge the cargo, there was no appearance of any other sentiment. On that day a large quantity of spars and plank were taken on board a lighter, by the people of the marine, to be carried on shore, by order of the minister of marine, but they were not landed. At noon the minister sent to request a note of the articles, and their quantity, which were on board the ship for the regency, that he might lay it before the dey in the evening, agreeably to his orders. I accordingly sent the note, taken from the invoice, but without affixing the prices. At 6 P. M. I received a message by my drogerman, from the minister of marine, informing me that when he laid my note of the articles before the dey, he became very outrageous on finding there was only 50 small barrels of gunpowder and four cables on board; when the note sent to the United States in 1810, as furnished by the minister of marine, demanded 500 quintals of gunpowder, and twenty-seven large cables, besides a very large quantity of cordage and other articles, as may be seen by said note forwarded in my letter of August, 1810, to the honourable the secretary of state; and told the minister that he would not receive the cargo, but would send the ship away from Algiers, and that I must depart in her, as he would not have a consul in his regency, who did not cause every thing to be brought exactly as he (the dey) ordered.

Early on the morning of the 21st, I waited on the minister of the marine to inquire into this procedure, when he confirmed all that had been told me by the drogerman, and added many other expressions of anger and disgust of the dey.

I reasoned with him on the subject, stating that it had never been usual to send the whole of such large orders at one time; that we had been very punctual in our payments, and that the cargo of this vessel would probably pay all that we owed; that cargoes had always come in this manner, assorted, with a part of each article, and that I had never before found any difficulty; that powder and cables were articles of which we did not make enough for our own use in the United States, and that it was almost impracticable, at this time, to bring them from other

countries, as was well known to himself and all the world; that in the present distracted state of nations, it was possible that the United States might be forced into a war, and that it behoved our government not to be destitute of so essential an article of defence as gunpowder; but that on a future occasion we might be able to send more; with many other remarks, which he allowed to be reasonable, but said that the dey was determined; and that when he had once fixed a resolution he never departed from it. And added, that the dey insisted upon having every thing brought which he ordered, *without regarding whether it amounted to more than the sum stipulated in the treaty or not;* and that I must depart on Thursday the 23d instant, on board the Allegany, with all the Americans now in Algiers.

I wished to see the dey, and for that purpose desired an audience, which was denied me.

I then requested that a few more days might be allowed for my remaining, that I might prepare myself, as it was impossible to make any arrangement of my affairs in so short a time, hoping, in the mean time, to make some accommodation of this business. The answer was that the dey would not allow an hour more.

I wrote a circular to the christian consuls in Algiers, informing them of my ordered departure.

The spars and plank which were taken out of the vessel yesterday, were returned on board this morning. In the morning of the 22d I sent my drogerman to the palace to say that I wished to make a settlement of the cargo of the brig Paul Hamilton, which had been delayed, by a request from the palace, until the Allegany should arrive, when a settlement could be made for both vessels at the same time.

The request was granted, and the drogerman informed me that the dey wished me to bring our treaty with me, that we might see the time when it commenced, the terms, &c. in order to make a final settlement of our accounts. This I did, and while I was settling the account of the Paul Hamilton's cargo with the prime minister and secretaries, in the usual manner, the dey's drogerman came down, and said, the dey wished to see the treaty which I had brought. I gave it to him without hesitation, supposing that the dey might wish to see something in it, or that he might compare it with that which was in the palace. But when I demanded the treaty again, the dey refused to deliver it, saying, by his drogerman, that when a consul was sent away, he, the dey, should always keep his treaty, and that such had ever been the custom at Algiers.

After settling the account of the cargo of the Paul Hamilton, which amounted to 12,109 dollars, and producing a tiscary or acknowledgment of a balance due to the United States, which had been given in February, 1810, at the settlement of the cargoes of the ship Resource and brig Blanchy, for 26,065 dollars; the minister and secretaries said there was still 27,000 dollars due to the present time. This I denied, as I had the receipts of the regency for the payment of annuities for fourteen and a half years, exclusive of the amount of the cargo of the Paul Hamilton and the tiscary for 26,065 dollars; and as our treaty was concluded on the 5th of September, 1795, it would be only 17 years in the whole, from which the fourteen and a half years were to be deducted, leaving two and a half years ending the 5th of September next, amounting to 54,000 dollars, from which deducting the cargo of the Paul Hamilton, and the tiscary before mentioned, would leave but 15,826 dollars, and which I had no doubt but the cargo of the ship Allegany would fully pay, if it should be received.

The minister then observed, that they counted the year by the Mahometan calender, consisting of 354 days, so that the difference in 17 years would make it one half year more than we counted. I told him that I had always reckoned the years in the christian manner of 365 days; and that I presumed the same was done by all other consuls having accounts of a sinilar nature with the regency. He said it was never so done, or allowed by the regency, and immediately sent up a note to the dey, of the sum due by his account, viz. 27,000 dollars.

After a short time the dey sent down word by his drogerman, that the balance must be paid *immediately in cash*, and that the vessel, with myself, &c. must depart to-morrow as he had ordered. I answered that it was impossible for me to comply with the dey's order, even if I acknowledged the balance to be just, and had every disposition to pay it, as I had not the means of obtaining the money, especially as the cargo of the ship now in port was sent by my government for the express purpose of paying what might be due to the regency, and was the strongest possible evidence of our punctuality in fulfilling our engagements.

The prime minister then went up to the dey, with the drogerman, and soon returned, saying that the dey persisted in his first order, that the money should be paid *immediately;* or that I should be sent to the marine in chains, the vessel and cargo confiscated, and all the citizens of the United States now in Algiers be detained in slavery, and *war* instantly declared against the United States.

I told the minister that the matter was now brought to a decision, and that I must go to the marine in chains, for it was not *possible* for me to obtain the money; and had no more to say on the subject, but would warn them of the evil which they were bringing on themselves, by such unjust and outrageous conduct.

The minister went to the dey a second time, when I demanded to accompany him; but was refused, and soon returned with what he said was the fixed and unalterable resolution of the dey, viz. that he would allow me till Saturday morning, the 25th instant, to pay the money and depart with the vessel and all other Americans in Algiers; but if this was not done, he should confiscate the vessel, detain in slavery all the Americans in Algiers, and declare war against the United States, as he had before determined. The minister also added, that the dey had been informed that the ship had brought a large quantity of coffee for sale, and some other articles not intended for him (meaning, I suppose, the gun barrels, &c. for the emperor of Morocco; but whence he could have got the information of the latter I know not, for I had never mentioned a syllable of it to any one in Algiers. I have since learned that it was discovered by some means or other, when the plank and spars were taken out of the vessel on Monday); and that he was, if possible, more highly incensed at this, than on any other account; saying that he considered it an insult offered, by having merchandize embarked on board a vessel which was said to have been sent for the sole purpose of bringing the annuity.

As I was determined that nothing should be wanting on my part to settle this unpleasant, and to me unaccountable business, I proposed to the prime minister, that the articles now sent by the Allegany should be received and passed to our credit, in the usual manner of settling the accounts of cargoes, where they had the power of fixing their own prices, and that whatever balance might appear due, after such settlement, should be paid in cash if the dey desired it; and that he might send a note of such articles as he expected for the next annuity, which I would forward to my government, with such observations on the propriety or necessity of sending the whole of them, as the dey should express. By this means, if the proposition should be accepted, time would be given to make preparations for future events, or, at any rate, our commerce in this sea might have been secured by giving timely notice, and putting our vessels on their guard. But the dey refused to listen to it, and repeated his first orders.

On leaving the palace I reflected upon the very critical and alarming situation of our affairs with the regency, which was not only brought on in the most unexpected manner, but without any reasonable or justifiable cause of complaint on the part of the dey. It appeared to me that he was determined to take a measure which I had for some time past apprehended, and which I had more than once the honour of intimating to the honourable the secretary of state, particularly in my letter of the 29th May last, viz. That after having concluded a truce with Portugal, and seeing Sicily under the protection of the British, he must make war upon some other nation, with or without a cause, in order to employ his cruisers; and that the extended and unprotected commerce of the United States offered greater prospects of advantage from plunder and captures than he could expect from any other nation. The ultimate consequence of such conduct he would never calculate; neither would he be restrained by any sense of shame, or of the flagrant injustice of the act.

In this state of embarrassment, and with these reflections, I was still determined to try all possible means to accommodate the present difficulties, before the ultimate period fixed by the dey should arrive; but if that could not be effected, I should prepare, if possible, to pay the balance demanded in money, to prevent the loss of the ship and cargo, the detention of all Americans in Algiers, and the immediate capture of others.

In order to raise the money I proposed to sell the cargo of the ship, as the dey would not receive it, and pay him the proceeds in cash towards the balance, but he absolutely forbid the sale of any article on board her. Thus situated I had no other means left but to endeavour to obtain the money on my bills, and while I was using every means in my power, and through every channel that could be devised, to have matters accommodated before they came to the last extremity, I was not inattentive to the necessity I might be under of procuring the money in the last moment.

As the discussions on our business had taken place either at the marine or in the palace, in presence of all those usually attending there, it was no secret; and I had the satisfaction of hearing a general sentiment of disapprobation expressed on account of the dey's conduct more strongly than I could have supposed it would have been done, when it was known in what awe and dread every one held the present dey, whose severity is almost without example.

The only quarter from which money could be obtained at any rate, was the house of Bacri, and upon application to him to

know if I could depend upon him in the last extremity, he raised many difficulties on account of the limited time, of the many very heavy payments which they had been obliged to make lately for the cargoes of the Greek prizes purchased by them, which had entirely absorbed their cash, &c. He also made some objection to the security of such bills, on account of my being obliged to leave the regency: to that I answered, that I should not desire any one to become my security, as the same objection would naturally occur to them, and that if I should give bills, I must candidly say that if the vessel should not afterwards be permitted to depart with her cargo (as I had some apprehensions, from the shameful conduct of the dey, might be the case, in violation of his word) the bills would not be paid, as the proceeds of the cargo, at the place to which she might go, must be depended upon towards discharging such bills. He said he would consider the subject, and give me an answer on Friday as to the practicability of getting the money, if it must be had, and the terms which would be expected for it.

On Friday I made the last effort to effect an accommodation, and flattered myself with some little prospect of success, as the minister of the marine and some others of the principal officers of the regency, had expressed their regret at what had happened, and had promised to do every thing in their power to induce the dey to alter his determination, if the dey should introduce the subject before them, on this day, when they all met him at the palace to go with him to the mosque, it being the mahomedan sabbath; but they candidly acknowledged that if he did not bring the matter forward, no one would dare to introduce it, as they knew the obstinacy of his temper, and dreaded the effects of his resentment.

I had communicated to the minister of the marine the proposition which I made in the palace on Wednesday, for the dey to take this cargo on account, and to pay the balance, if any, in cash, &c. which he did not hesitate to declare he thought highly reasonable, and such as should be satisfactory; but at the same time remarked on the inflexible obstinacy of the dey, when he had once taken his resolution.

At one o'clock my drogerman brought me a message from the dey, which he said was his last, and irrevocably fixed, viz. that I should to-morrow morning pay into the treasury 27,000 Spanish dollars, which he claimed as the balance of annuities from the United States, and then depart from the regency with my family, and all other citizens of the United States in Algiers, in the ship which had brought the stores, in fulfilment of treaty stipulations, and which he had refused to receive; or

that the ship and cargo, with all other Americans now in Algiers, should be detained, the former confiscated, the latter kept in slavery, and that war should be instantly declared against the United States.

This message determined the business, and closed every door of hope for an accommodation. It was confirmed by the minister of marine, who said that the subject having been introduced by the dey in their presence, he and the other ministers had urged every thing they dared, to induce the dey to alter his determination, and to accept my proposition, but in vain. He was inflexible, and the alternative must be taken immediately.

I had now my ultimate choice to make, between the payment of the money, if it could be obtained, and the certain loss of the vessel and cargo, worth much more than the sum claimed by the dey, and the immediate slavery of more than twenty American citizens (including myself and family) now in Algiers, with the highest probability of many American vessels and their crews being captured before it would be possible to give notice of what had happened, to enable them to consult their safety by remaining in port, as the port of Algiers had been shut since the sailing of their cruizers on the 13th instant, and of course no opportunity had offered to communicate an account of these transactions to any of our consuls in the Mediterranean.

I therefore made my election to pay the money, if it could be obtained, especially as the departure of the Allegany would afford an opportunity of giving the most speedy information to every part of this sea, and guard American vessels against falling into the hands of the Algerine cruizers now out; as I can now have but little doubt of the dey's having given orders to his cruizers, on their sailing, to detain and send in such American vessels as they may find. For it must clearly be seen that he has no reasonable or justifiable ground for his present demand and conduct; and I am in a great measure confirmed in my apprehensions entertained and expressed in my last letters to the honourable the secretary of state, that after the truce with Portugal and the protection of the Sicilians by the English, he would make war upon some nation to employ his cruizers; and that none offered a better prospect than the vessels of the United States.

The present posture of affairs between the United States and Great Britain, just on the point of open hostilities, would afford another guard and security against our sending a force into this sea to protect our commerce now here, or revenge the insult and injury inflicted upon us; especially, too, as under present

circumstances he must suppose that it would be gratifying to the British, with whom, there is every reason to believe, he has a treaty offensive and defensive.

I sent for Mr. Bacri, and informed him of my determination to pay the money and depart from Algiers, and should depend upon him for it. But that if, after paying the money, the vessel and Americans should not be allowed to depart from Algiers (which I had reason to apprehend from the dey's outrageous and extraordinary conduct might happen, notwithstanding his declaration) the bills which I might draw would not be paid at Gibraltar; for, that I must depend upon the sale of the cargo of this vessel to meet the bills as far as it would go; and that I gave him this information, that he might know the ground on which he stood. He replied that he should have full faith in the bills on that condition, and then observed that the sacrifices which must be made to obtain the money at the moment, could not be less than 25 per cent. After some further discussion of the subject, and knowing the impossibility of obtaining the money from any other quarter (about which I had made enquiry for two days past), I agreed to give him the advance, which brought the amount to 33,750 dollars: and in the evening give him a bill, at 30 days sight, on John Gavino, esq. consul of the United States at Gibraltar, in favour of Moise Levy Valensen, of Gibraltar, value received of Jacob Cain Bacri, of Algiers, on account of the United States of America, to pay a balance claimed by the dey of Algiers, for annuities from the United States, the dey having refused to receive the naval and military stores sent from the United States agreeably to treaty stipulation, to pay such balance as might be due. I also stipulated with Mr. Bacri, that he should cause the money to be paid into the treasury to-morrow morning, so as not to give any ground for detaining the vessel, or raising any new difficulties on that account, which he promised to do.

I gave to John Norderling, esq. his Swedish majesty's agent general at Algiers, a letter, accepting his friendly offer to take care of my property left in Algiers, and also requesting his kindness to be extended to any American citizens who might arrive in Algiers after my departure, or be unhappily brought in by the cruizers of the regency.

The following is an extract from my letter to Mr. Norderling:

"As my departure from Algiers is compulsive, I leave no person directly charged with the affairs of the United States of America in this regency. But should any of our citizens arrive here, or be unhappily brought in, your kindness to them

will be gratefully acknowledged, and the necessary and reasonable expenses for the support of such as are destitute, will be paid by the government of the United States."

Through the day of Friday, and in the evening, my acquaintance of all descriptions called upon me, and the unfeigned sorrow expressed by all of them, of every denomination, sufficiently evinced the regard they had for us. And the undisguised disapprobation and disgust expressed by all classes at the dey's conduct, must, I think, end in some disastrous event for him.

Very early on Saturday morning the drogerman came to my house and informed me that Jacob Bacri had paid the money to the regency; and soon after the minister of the marine sent for me to go to the marine, where he informed me it was the dey's order that myself and all the other Americans should embark immediately, and depart from Algiers. He expressed his regret at what had happened, and declared that it was against his strong advice and wishes, hoped that every thing might yet be accommodated, after the dey's phantasy should have passed, &c. I intimated to him my suspicions and apprehensions that orders had been given to the cruizers which sailed on the 13th instant, to capture American vessels. He assured me that if such orders had been given by the dey to the commander of the squadron, he was ignorant of it, and that he hoped it was not the case. How far his reply is to be relied on I am not able to say.

I requested the minister to give me a certificate of the ship Alleghany having been sent away by order of the dey, that in case she should be met by any of the cruizers now out, they might not molest or stop her. This he declined, saying that their cruizers were all at the east of Algiers, and that if any one should molest or detain the vessel, the dey would punish the commander most severely, &c. This did not satisfy me, but I could not prevail upon him to give the passport.

When I parted from the minister I was about to return to my own house, to accompany my wife on board the vessel; but he said I must not return there again, but must go on board, as the vessel was getting under way, and that the drogerman would go up to conduct my family down and on board, which was accordingly done, and the vessel got out of the port about seven o'clock, A. M.

The persons embarked on board the Allegany, besides the captain and crew (consisting of 17 persons), are myself, my wife, and my son (who arrived from the United States, via Gibraltar, on the 15th instant), Mr. Jonathan S. Smith, of

Philadelphia, who has been in Algiers these two years past, with some coffee for sale, which he has thought proper to abandon, and says he shall seek for indemnification from the United States. I advised him to sell it, as it was not possible for the ship to take it on board, as she was entirely filled with the cargo which she brought out, but he did not think proper to comply with my advice; Mr. John Vallet, a naturalized citizen of the United States, whom I have mentioned in my letter of the 29th of May, a copy of which I have now the honour to inclose, as well as of that of the 30th of April; and a Mr. Pinto, also a naturalized citizen of the United States, certificate from South Carolina.

On the evening of our leaving Algiers we spoke a British letter of marque, bound to Malta, and as the weather did not admit of sending a letter on board, I desired the captain to inform the American consul at that place that I had been ordered from Algiers; and, as there was no doubt but the Algerine cruizers would capture any American vessels they might meet, desired that he would give notice thereof to all American vessels in Malta, and extend the information in every direction possible.

Yesterday we were boarded by his Britannic majesty's brig Goshawk, which was going with a convoy to Alicant and Majorca, to the commander of which brig I gave letters to our consuls in those places, a copy of which I have the honour to inclose, and requested the said commander to give the notice of my being ordered from Algiers, &c. to any American vessels he might meet at sea, and make the same known wherever he might go. I shall forward my circular to any places to which we may meet vessels going, until I reach Gibraltar, whence I shall disperse my circulars by every opportunity which may offer, to all ports of this sea, as well as to the ports in the Atlantic.

The officers of the Goshawk who boarded us, gave information that the British orders in council, laying restraints on neutral commerce, had been revoked, and that the British cruizers had orders not to molest American vessels, as an evidence of which he did not even ask for a sight of the Allegany's papers.

I took passports for the ship from the French and Spanish consuls before I left Algiers. The English consul did not furnish any, although I applied to him for that purpose. I did not ask them from the Swede or the Dane, as they have no vessels in this sea.

I have now, sir, given you a faithful and a detailed account of this extraordinary and unexpected transaction. While I feel conscious that no exertion was wanting on my part, and no means in my power left unattempted to make an accommodation, when the difficulties were first brought forward, and during the whole course of this unexampled proceeding; and that my ultimate decision was made on the ground of necessity, to prevent a greater evil to my country; I trust that the president and our government will approve my conduct. The law passed on the first of May, 1810, restricting the consuls in Barbary to the sum of three thousand dollars annually, to be employed in presents, &c. without the special permission of the president first obtained, prevented my making those attempts in a pecuniary way, for opening a door to accommodation, which I should otherwise have done; but upon a review of the whole of the circumstances attending this business, I have now my doubts whether any sum which the United States might have thought proper to bestow, would have answered the purpose. I thought it my duty, however, to make some attempts in that way, upon the scale to which I was limited; but it had not the desired effect.

The character of the present dey, Hadge Alli, bashaw, is that of a severe, obstinate, and cruel man. He is said to be inflexible in his resolutions, and will bear no contradiction or reasoning. He has kept the soldiers in more subjection during his reign than they have been accustomed to for many reigns before, and no one dares approach him, but those whose duty calls them into his presence, or who are sent for by him. He has not granted an audience to any consul for nearly a year past, except to a new English consul who arrived in April last; and would not see the old consul before his departure. The tales told of his personal conduct in the palace, bespeak him a man deprived, at times, of his reason. His conduct with respect to our affairs is almost an evidence of his insanity; and I am very much mistaken if it does not hasten his exit from this world, but while he reigns he is most absolute. And I have very little hopes of his refraining from making war upon the United States. There is every reason to apprehend, from what has taken place, as before detailed, that the cruizers had orders to capture American vessels, before their departure from Algiers on the 13th instant. In which case some vessels will undoubtedly fall into their hands before the notice I have given, or may give, can reach the ports where they may be, and prevent their sailing. It therefore behoves the government to prepare for such an event, and to determine in what manner they will

meet it. Should our differences with Great Britain be so accommodated as to admit of sending a naval force into this sea, I am sure there is only one course which the government will pursue, and what has now taken place may be a happy and fortunate event for the United States, by relieving them from a disgraceful tribute, and an imperious and piratical depredation on their commerce. *If our small naval force can operate freely in this sea, Algiers will be humbled to the dust.*

Spain would undoubtedly be ready and willing, as far as she might be able, to co-operate with any nation against Algiers; for the enormous demands made upon the former by the latter not having been complied with, the Algerines have lately taken vessels and property from the Spaniards to the amount of more than 100,000 dollars, and have upwards of fifty of the subjects of that nation in slavery. They still permit, or rather compel the consul to remain at Algiers, and have not declared war against Spain, whose ally seems to view these depredations with indifference. The French may be said to be nearly in a state of open hostility with them; and the Algerines know, that in the event of a peace between Great Britain and France, they must submit to the will of the latter power. Sweden and Denmark are in arrears for four or five annuities, and nothing but a knowledge that these powers have no commerce in this sea, on which they can depredate, prevents their making war upon them. In the mean time, the consuls of these nations pay annually a considerable sum in money for their forbearance, while the account of annuities is accumulating. All the Sicilians have been released, through the interference of the English, from Tunis and Tripoli; and at my departure from Algiers, lord William Bentick was daily at that place, to treat for the Sicilians in slavery there. The Portuguese have redeemed all their subjects in slavery at Algiers, and extended their truce with the regency for one year.

I shall proceed in the Allegany to Gibraltar, where I shall dispose of her cargo, which has been refused by the dey of Algiers, to meet, as far as it will go, the bill before mentioned, and for the remainder shall draw upon the honourable the secretary of state. At the same time, I shall send to Mr. Simpson, our consul at Tangier, the gun barrels intended for the emperor of Morocco, as well as a copy of your letter respecting the change of passports, with a proportion of the tops, and one of the new passports. The same will be done to Tunis and Tripoli, from which places I have heard nothing since I had last the honour of writing to you. I shall also from thence dispense information of what happened at Algiers, to all ports of

this sea, as before mentioned, and shall add to this letter (if an opportunity should not offer of forwarding it before my arrival) such occurrences or information as I may meet there.

On the 13th instant, the whole naval force of Algiers sailed on a cruize to the eastward, supposed to be destined against Tunis, or to make a descent on some part of Sardinia, for the purpose of getting slaves. It consisted of the following vessels:

1	frigate of	50 guns and	500 men
1	do.	46 do.	460
2	do.	44 do. 450 men each,	900
1	do. (new)	38 do.	400
2	corvettes,	24 guns each,	500
1	do.	22 do.	230
2	brigs,	22 guns each,	450
1	xebeck,	20 guns	200
1	schooner,	4 do.	40
1	row galley		50

6 gun boats, sloop rigged, carrying one twenty-four pounder, and one eleven inch mortar each.

The heaviest cannon in their frigates are eighteen pounders, but these do not extend through the whole battery, having some twelve pounders among them; the other guns are nine and six pounders. The corvettes and brigs carry twelve, nine, and six pounders: none of them have carronades.

The large frigate is about six years old, and the best of the squadron. She is about the size of our 36 gun frigates. Three of the others are very old ships, hardly sea-worthy, about the size of our 32 gun frigates. That of 38 guns is a new ship, launched at Algiers about two months since, and is about 500 tons burthen. The two corvettes of 24 guns are Greek prizes, converted into cruizers, about 400 tons burthen each. The corvette of 22 guns is an old vessel of about 350 tons. The two brigs are about 250, and the xebeck 200 tons. Four of the frigates, one corvette, and the two brigs are coppered.

The Algerines have not another vessel of war besides those mentioned, excepting three gun boats, of the size of those sent out, which are unfit for service. All their small open gun boats for the defence of the bay, are either broken up or entirely unfit for service.

The squadron before mentioned is commanded by their famous captain Rais Hammida, who bears the title of admiral. He is a bold, active, enterprizing commander, but entirely unacquainted with any regular mode of fighting; he has not the advantage of being a Turk, or even an Algerine by birth, and his advancement, which has been owing entirely to his activity,

enterprize, and singular good fortune, has excited the jealousy and hatred of the other commanders, who are far inferior to him in point of talents; but he is much beloved by the sailors (if such they may be called who go out in their cruizers.) He is an Arab of the mountains, of one of the tribe of Carbiles; he came to Algiers when a boy, to seek a livelihood, as is the custom of those people, and going out in one of the cruizers became attached to that mode of life, and has risen to his present rank. He is about 40 years old.

The crews of their cruizers consist principally of the lowest and most miserable order of people in Algiers, known by the name of Biscaries and Carbiles, from the tribes to which they belong. They are either taken from the streets at the moment when a cruizer is about to sail, or if a previous cruize has been fortunate they go on board voluntarily in great numbers, hoping to obtain plunder or prize money. As the last cruize of their corsairs was esteemed fortunate by the capture of a number of Greek vessels loaded with wheat, and each man shared about 50 dollars, the vessels have been crowded with volunteers on the present cruize. Besides these there are a few who may be called good seamen for Algerines; and about 10 or 12 Turkish soldiers to every 100 men on board the vessel.

They know nothing of regular combat at sea, and if kept from boarding distance, they could not withstand one half their own force on board another vessel, which should be tolerably well managed in the usual mode of sea-fighting. It is on boarding that they depend entirely to overcome an equal or any force that will contend with them. These attempts they sometimes make with a desperation bordering on madness; but if foiled in that, they have no other resource.

After this account of the Algerine cruizers and their crews, which is faithful and correct, I am sure that our brave officers and seamen would rejoice to meet them with only half their force, if circumstances should make a recurrence to arms necessary on our part, and our ships could come freely into this sea.

Enclosed is the account of the settlement of the cargo of the brig Paul Hamilton, made at the palace on the 22d instant, and although the prices allowed for the cordage and cables are at a great loss to the United States, yet those given for the plank and turpentine, &c. make the settlement upon the whole as good as usual, and had the cargo of the ship Allegany been received at the same rate, it would have paid the balance up to September next, which completes the 17th year of our treaty, according to our computation of time. The account of annuities between

the United States and Algiers, as per treaty, stands simply thus:

Dr. The United States to the dey and regency of Algiers.

To 17 annuities ending Sept. 5th, 1812, at 21,600 dollars per year, - - - - -	$ 367,200

Supra *Cr.*

By 14⅓ annuities paid as per receipts, at 21,600 dollars per year, - - -	$ 313,200
By a tiscary given at the last settlement for a balance in favour of the United States, 14,480 old sequins, - - - - -	26,064
By the amount of stores brought by the brig Paul Hamilton, as per settlement July 22d, 1812,	12,099
	$ 351,363
Balance due to the regency of Algiers on the 5th Sept. 1812,	15,837
	$ 367,200

The regency of Algiers counting the time by the Mahometan computation of 354 days to the year, make 17⅓ years, which is an addition of half a year or 10,800 dollars to the above balance, which makes their balance 26,637 to the 5th of September, 1812, for which the dey demands 27,000 dollars, in round numbers.

Message from the President of the United States transmitting a Report of the Secretary of State, made in obedience to a resolution of the House of Representatives of the ninth instant, requesting information touching the conduct of British Officers towards persons taken in American armed Ships.

To the House of Representatives of the United States.

I transmit to the house of representatives a report of the secretary of state, complying with their resolution of the 9th instant.

December 21st, 1812. JAMES MADISON.

The secretary of state, to whom was referred the resolution of the house of representatives of the 9th instant, requesting information touching the conduct of British officers towards per-

sons taken in American armed ships, has the honour to lay before the president the accompanying papers marked A. B. C. from which it appears, that certain persons, some of whom are said to be native, and others naturalized citizens of the United States, being parts of the crews of the United States' armed vessels the "Nautilus" and the "Wasp," and of the private armed vessel, the "Sarah Ann," have been seized, under the pretext of their being British subjects, by British officers, for the avowed purpose, as is understood, of having them brought to trial for their lives, and that others, being part of the crew of the Nautilus, have been taken into the British service.

The secretary of state begs leave also to lay before the president the papers marked D. and E. From these it will be seen, that whilst the British naval officers arrest as criminals such persons taken on board American armed vessels as they may consider British subjects, they claim a right to retain on board British ships of war American citizens who may have married in England, or been impressed from on board British merchant vessels; and that they consider an impressed American, when he is discharged from one of their ships, as a prisoner of war. All which is respectfully submitted.

JAMES MONROE.

Department of State, December 19, 1812.

A. No. 1.

Extract of a letter from Lt. F. H. Babbitt to master and commandant Wm. M. Crane, of the United States' navy, (late of the United States brig Nautilus,) dated

Boston, Mass. 13*th Sept.* 1812.

Enclosed I send you a description of the proportion of our little crew, who have been so debased and traitorous as to enter the service of our enemy. Also, a list* of those gallant fellows whose glory it would have been to have lost their lives in the service of their country, and whose misfortune it has been to cross the *Atlantic* on suspicion of their being British subjects: four of them, native born Americans, and two naturalized citizens. On their parting with me, and removal from the Africa of 64 guns to the Thetis frigate (the latter with a convoy from England, then in 43. 30. N. and 46. 30. W.) their last request and desire was that I would particularly acquaint you with their situation, with their determination never to prove *traitors* to that country whose flag they were proud to serve under, and

* This list not received.

whose welfare and prosperity they equally hoped and anticipated to realise.

(Signed) F. H. BABBITT.

A list of men said to have entered on board his B. M. frigate Shannon, commodore Broke. Their description as far as known.

Jesse Bates, seaman, about 5 feet 9 inches high, dark hair and complexion, dark snapping eyes, has an impediment in his speech, and at times affects lunacy; has a wife and family in Boston, Mass.

Samuel Lang, marine, born in Kentucky, 5 feet 8 inches high, or thereabouts, and is supposed to be with capt. Hall, of U. S. marines, New York.

John Young, marine, 5 feet 5 inches high, large mouth, enlisted with capt. Hall, navy yard, New York; when addressed, or is addressing an officer, casts down his eyes. For his particular description as well as that of John Rose, marine, about 5 feet 8 inches high, brown hair, full face, thick set, and a scowl in his countenance, refer to capt. John Hall.

John O'Neal, seaman, about 25 years of age, 5 feet 5 inches high, dark hair, sharp face, dark eyes, thick set, and was shipped at Norfolk, Va. previous to your taking command of the Nautilus.

William Jones, od. seaman, about 5 feet 8 inches high, light hair, 24 years of age, full face, thick set, down-cast look, and is a very alert man; entered at New York April last.

(Signed) F. H. B.

A. No. 2.

Sir John Borlase Warren to Mr. Monroe.

Sir, *Halifax, 30th September*, 1812.

Having received information that a most unauthorized act has been committed by commodore Rodgers, in forcibly seizing twelve British seamen, prisoners of war, late belonging to the Guerriere, and taking them out of the English cartel brig Endeavour on her passage down the harbour of Boston, after they had been regularly embarked on board of her for an exchange, agreeable to the arrangements settled between the two countries, and that the said British seamen, so seized, are now detained on board the U. States frigate President as hostages; I feel myself called upon to request, sir, your most serious attention to a measure so fraught with mischief and inconvenience, destructive of the good faith of a flag of truce and the sacred protection of a cartel. I should be extremely sorry that the imprudent act of

any officer should involve consequences so particularly severe as the present instance must naturally produce if repeated; and although it is very much my wish, during the continuance of the differences existing between the two countries, to adopt every measure that might render the effect of war less rigorous, yet, in another point of view, the conviction of the duty I owe my country would, in the event of such grievances as I have already stated being continued, not admit of any hesitation in retaliatory decisions: but as I am strongly persuaded of the high liberality of your sentiments, and that the act complained of has originated entirely with the officer who committed it, and that it will be as censurable in your consideration as it deserves, I rely upon your taking such steps as will prevent a recurrence of conduct so extremely reprehensible in every shape.

I have the honour to be, with the highest consideration, sir, your most obedient and most faithful humble servant,

(Signed) JOHN BORLASE WARREN,
Admiral of the blue, and commander in chief, &c.

His excellency James Monroe, esq. Secretary of State.

Mr. Monroe to Sir John Borlase Warren.

Sir, *Department of State, October 28th*, 1812.

I have had the honour to receive your letter of the 30th September, complaining that commodore Rodgers, commanding a squadron of the United States' navy at the port of Boston, had taken twelve British seamen, lately belonging to his Britannic majesty's ship the Guerriere, from a cartel in the harbour of Boston, and that he detained them on board the President, a frigate of the United States, as hostages.

I am instructed to inform you, that inquiry shall be made into the circumstances attending, and the causes which produced the act of which you complain, and that such measures will be taken on a knowledge of them, as may comport with the rights of both nations, and may be proper in the case to which they relate.

I beg you, sir, to be assured that it is the sincere desire of the president to see (and to promote, so far as depends on the United States) that the war which exists between our countries be conducted with the utmost regard to humanity.

I have the honour to be, &c. &c.

(Signed) JAMES MONROE.

Sir John Borlase Warren, Admiral of the Blue, and Commander in Chief, &c. &c.

B.

Sir, *Washington, December* 17, 1812.

I have the honour to annex a list of twelve of the crew of the late United States' sloop of war Wasp, detained by captain John Berresford, of the British ship Poictiers, under the pretence of their being British subjects.

I have the honour to be, respectfully, sir, your obedient servant,

GEO. S. WISE, purser.

The hon. Paul Hamilton, Secretary of the Navy.

List referred to in the preceding note marked B.

John M'Cloud, boatswain, has been in the service since 1804. Married in Norfolk in 1804 or 5, and has a wife and four children there.

John Stephens, boatswain's mate, has been in the service 5 or 6 years.

Geo. M. D. Read, quarter master, has a protection, and has sailed out of New York and Philadelphia for several years.

William Mitchell, seaman, James Gothright, do. John Wright, do. Thomas Phillips, do. Peter Barron, do. John Connor, ordinary seaman, John Rose, do. George Brooks, do. Dennis Daugherty, marine.

The greater number, if not all, had protections at the time of entering and being taken. Two others were detained—John Wade and Thomas Hutchins; but were given up, the former on captain Jones' assuring captain Berresford he knew him to be a native citizen; the latter on a like assurance from D. Rodgers.

Wm. Mitchell was in the service during 1805 and 6, in the Mediterranean.

Washington city, December 17, 1812.

GEORGE S. WISE, purser.

C.

Extract of a letter from major general Pinckney to the Secretary of War, dated

Head-Quarters, Charleston, 4th November, 1812.

Information having been given upon oath to lieutenant Grandison, who at present commands in the naval department here, that six American seamen, who had been taken prisoners on board of our privateers, had been sent to Jamaica to be tried as British subjects for treason, he called upon the marshal to retain double that number of British seamen as hostages. The marshal, in consequence of instructions from the department of

state, asked my advice on the subject, and I have given my opinion that they ought to be detained until the pleasure of the president shall be known. The testimony of captain Moon is herewith. I hope, sir, you will have the goodness to have this business put in the proper train to have the president's pleasure on this subject communicated to the marshal.

Copy of a letter from captain Moon, of the privateer Sarah Ann.

Nassau, New-Providence, 14th October, 1812.

Six of my crew, claimed as British subjects, were this day taken out of jail and put on board his majesty's brig the Sappho, and sailed for Jamaica, where 'tis said they are to be tried for their lives; consequently I questioned each respectively as to the place of their nativity, and title to protection by the American government, when they stated as follows, to wit:

David Dick, seaman, that he was born in the north of Ireland, but has resided in the United States ever since the year 1793; has served ten years in the United States' navy, viz. on board the frigates Chesapeake, President, Constitution, John Adams, and schooner Enterprize, and gun boat No. 2. David Dick, shoemaker, in Alexandria, is his uncle. Dick is about five feet six and a half inches high, dark hair, has a scar on his left elbow and one on each wrist; he entered on board the Sarah Ann in Baltimore.

John Gaul, seaman, says he was born in Marblehead, state of Massachusetts, where his parents, brothers, and sisters now reside; is married in New York, and his wife (Mary Gaul) lives in Roosevelt street, No. 37; has a regular discharge from the navy of the United States by captain Hugh G. Campbell, dated at St. Marys, Georgia, 14th August, 1812; says he has served on board the United States' brig Vixen, gun boats No. 10 and 158, from the last of which he was discharged. Gaul is twenty-seven years of age, about five feet seven inches high, brown hair, light complexion; he entered on board the Sarah Ann in Baltimore.

Michael Pluck, od. seaman, says he was born in Baltimore; his parents are dead, but he is known by William Doulan, Thomas Turner, and M'Donald of Baltimore; has a sister in some part of Pennsylvania, whose name is Ann Welsh; was never at sea before; never had a protection. Pluck is twenty-six years old, five feet six and a half inches high, and has a scar on his left cheek bone; entered on board the Sarah Ann at Baltimore.

Thomas Rogers, seaman, says he was born in Waterford, Ireland, but has resided many years in the United States, and has

been duly naturalized, a copy of which naturalization is filed in the custom house at Baltimore; he is known by Joseph Carey and Tom Rogers, cork cutter, both of Baltimore; has a wife and three children in Baltimore; has lost his protection, but requests Joseph Carey to do all he can to effect his discharge from the British. Rogers entered on board the Sarah Ann in Baltimore.

George Roberts, a coloured man and seaman. This man I had not an opportunity of questioning; but I know him to be a native born citizen of the United States, of which fact he had every sufficient document, together with free papers. Roberts entered on board the Sarah Ann in Baltimore, where he is married.

Sonty Taylor, boy, says he was born in Hackensack, New Jersey, but has neither friends, relations, nor acquaintance there; says, Jane Snowden, of Savannah, Georgia, is his mother; never had a protection. Taylor is fifteen years old, has brown hair and light complexion; he entered on board the Sarah Ann in Savannah.

RICHARD MOON,
Late Commander of the Privateer Sarah Ann.

D.

Copy of a lettter from Admiral Warren to Mr. Mitchell, agent for the exchange of American prisoners of war, dated

Sir, *Halifax, 21st October*, 1812.

I have the honour to receive your letter and its enclosures relating to Thomas Dunn,* and beg leave to inform you, that it appears the said man is married in England, has been eight years in his majesty's service, and received a pension from government: under these circumstances, and the man never having made any application for his discharge from prison, he continues on board the Statira.

I have the honour to be, sir, your most obedient humble servant,

(Signed) JOHN BORLASE WARREN.

E.

Extract of a letter from William H. Savage, late agent for American seamen and commerce at Jamaica, to the secretary of state, dated

Washington, Dec. 1, 1812.

I take the liberty to enclose you copies of a correspondence which took place between vice-admiral Stirling (commanding

*Note. The application was made at the request of his father John Dunn, of Boston, who transmitted a deposition of his birth.

on the Jamaica station) and myself, since the declaration of war. I should have furnished it you at an earlier period, but an accident prevented, which I was not aware of, until my arrival at this city.

No. 1.

Copy of a letter to vice-admiral Stirling, commanding on the Jamaica station, on the subject of American seamen, after the declaration of war.

Sir, *Kingston, Jamaica, 6th August,* 1812.

Enclosed is a copy of a letter received by me yesterday from on board his majesty's ship Sappho, purporting to have been written by four American seamen on board that ship, with a view to solicit my aid towards effecting their discharge, in consequence of the declaration of war by the government of the United States against Great Britain.

In making this application, I am fully aware that my duties ceased as agent for the commerce and seamen of the United States on the knowledge of such declaration being made known here: but, sir, I am led to believe, that, at this period, it will not be deemed inadmissible on your part to receive, nor improper on mine to make the request, that you will be pleased to grant an order for the discharge of these seamen, feeling conscious (should they even not be protected with the usual documents afforded to citizens of the United States) that an English seaman would not declare himself otherwise than such under existing circumstances.

I seize the present opportunity also to forward to you twenty-one documents as proof of the citizenship of that number of seamen, said to have been impressed by ships of war on this station, the greatest number of which have been heretofore unsuccessfully claimed by me, on behalf of the United States, and which may still comprise, at this time, some part of the crews of his majesty's ships on this station.

I beg further to state to you, that I have received numerous applications from on board various of his majesty's ships on this station for the relief of seamen, who I doubt not are entitled to the protection of the American government, many of them having with them the proofs of their citizenship, as I am led to believe from the assertions contained in their communications. Applications have also been made for the relief of many without success: the latter amount in number to forty-six, as per list of names enclosed, several of whom I understand have been shifted (since their impressment) on board of other vessels than those they were at first taken on board of. All of which I beg

to offer for your consideration, feeling as I do anxious to extend my last efforts in behalf of those seamen who are entitled to them, and at the same time being impressed with the idea, that it would be foreign to you, sir, to retain any Americans in the service of the navy of Great Britain contrary to their disposition, during the present conflict. I therefore take the liberty of adding to my former request, that you will be pleased to grant orders that such seamen may be discharged from duty on board his majesty's ships on this station.

With sentiments of the highest respect, &c.

(Signed) WILLIAM H. SAVAGE.

No. 2.

Copy of vice-admiral Stirling's secretary's letter in answer to mine to the vice-admiral of 6th August, 1812.

Sir, *Admiral's Penn, Aug. 7, 1812.*

I am desired by vice-admiral Stirling to acknowledge the receipt of your letter of yesterday's date, and to acquaint you that directions were given some days ago, that all seamen in the squadron under his command, who can prove themselves to be American born subjects, should be sent to the prison ship until an exchange of prisoners is established between the two countries, in consequence of the late declaration of war by the United States against Great Britain.

I return herewith the papers which accompanied your letter, and am, sir, &c. &c.

(Signed) CHAS. STIRLING, jun. *Secretary.*

No. 3.

Extract of a letter from William H. Savage, esq. late agent for American seamen and commerce at Jamaica, to Charles Stirling, jun. esq. dated

Kingston, Sept. 16, 1812.

In answer to my letter of the 6th ultimo, you were pleased to inform me that directions had been given by the vice-admiral some days prior to the date of my letter for the removal of all native Americans (who could prove themselves such) from on board H. M. ships to that of the prison-ship; but as some time has now elapsed since you were pleased to give me this information, and learning that some instances of detention at present exist on board H. M. schooner Decouverte, I am led to embrace the subject again, as in one instance I shall hope to satisfy vice-admiral Stirling of the man's being entitled to his removal from duty on board H. M. schooner of war. The person alluded to is Elijah Stirling, an American seaman, who was impressed

from on board the British merchant ship Brilliant at the bay of Honduras, in the early part of the year 1810, by H. M. schooner Flor del Mar, and has since been detained on board of various of H. M. ships on this station, although provided with a regular protection, which instrument this man got conveyed to me about the 20th of September following, and which was by me forwarded to admiral Rowley, accompanied (as usual in like cases) with a request that the man might be discharged. On the receipt of my letter the admiral answered through his secretary, that the nature of Stirling's impressment was such, that he could not comply with my request; but which answer was unaccompanied in return with the protection in question, and what has become of it I am unable to say.

About this period I was led to understand from admiral Rowley, that all American seamen who should be impressed from on board any British merchantvessel, would be retained in the service of his majesty, but that all American seamen who should be impressed from on board of American vessels, would, on application, accompanied by proof, be discharged. As this information was received about the period of my application for the discharge of Stirling, I was led to conclude it stampt the nature of his impressment, and what confirmed it in my mind was, that I received similar assurances to various applications made for American seamen, who had under various circumstances shipped on board of British ships, and were from thence impressed on board of H. M. ships of war, all of which I hope the admiral will be pleased to take into consideration; for to insist on the service of this man, I think, will be a dereliction to the marked manner of his amiable endeavours to distinguish and relieve American seamen from duty on board the squadron under his command. I beg to enclose a note from Mr. Meek (the late secretary) relative to my application for this man's discharge, and to observe, that it is possible the protection may yet be found among the papers of the late secretary, as it has not been usual to return me the protections of those men whose applications for discharge were not complied with.

I beg furthermore to observe, that there appears also to be on board his majesty's schooner Decouverte, two other American seamen, viz. John Englefield and Richard Lauderkin, the former of whom asserts that he served his apprenticeship to the trade of a cooper, at Boston, but has lost his protection; the latter declares himself to be a native of Rhode-Island, and that his protection has been destroyed by Mr. Olliver, commander of his majesty's schooner Decouverte. I shall not now animadvert on the impropriety of such a circumstance, but request, should the

instances here cited be found correct, that they may meet the attention of the vice-admiral.

No. 4.

Extract of a letter from vice-admiral Stirling's secretary, to W. H. Savage, esq. in answer to his of the 16th September, 1812.

Admiral's Penn, 19th September, 1812.

I have just received your letter of the 16th instant, which I have laid before vice-admiral Stirling, and I am directed to acquaint you, that Elijah Stirling, and other persons on board of his majesty's schooner Decouverte, said to be American seamen, have not, when called upon, produced proof of being subjects of the United States. They do not fall under the description of persons which I informed you in my letter of the 7th ult. were intended to be discharged from the king's service, and to be detained on board the prison ship until an exchange of prisoners takes place with America.

The note from Mr. Meek, dated the 21st September, 1810, is returned herewith; and as it appears thereby that admiral Rowley thought the circumstances under which Elijah Stirling was impressed, did not permit him to be discharged, vice-admiral Stirling does not feel himself justified in attending to the man's wishes on a bare assertion. The protection you allude to is not to be found among admiral Rowley's papers left in this office.

Message from the President of the United States, transmitting copies of a correspondence between John Mitchell, agent for American prisoners of war at Halifax, and the British admiral commanding at that station; also, copies of a letter from commodore Rodgers to the Secretary of the Navy.

To the Senate and House of Representatives of the United States.

I transmit, for the information of congress, copies of a correspondence between John Mitchell, agent for American prisoners of war at Halifax, and the British admiral commanding at that station.

I transmit for the like purpose, copies of a letter from commodore Rodgers to the secretary of the navy.

JAMES MADISON.

January 22d, 1813.

Extract of a letter from John Mitchell, esq. agent for American prisoners of war at Halifax, to the secretary of state, dated 5th December, 1812.

I cover you a copy of a correspondence, which took place in consequence of different applications I received, either by letter or personal, from persons detained on board his Britannic majesty's ships of war in this place.

I formerly mentioned to you that the admiral had assured me, that he would discharge all the citizens of the United States who were in the fleet, and actually did discharge several. This induced me to think I should be correct, and in the perfect line of my duty, in sending him a list of the applicants to me, and requesting an enquiry to be made, and discharges granted to all who were citizens of the United States; I, therefore, covered him a list of the names now enclosed to you, which produced his letter to me of same date (1st Dec. 1812.)

I read it with surprize, because some of the men had informed me their captains had refused to report them to the admiral. Now, if no one here was or is allowed to do it, their situation is hopeless.

It is not my place, sir, to reason with you on this business. *Proof of nativity*, in his first letter, is a strong expression; and how few are in possession of it, and how many who cannot obtain it!

The second paragraph, in the second letter, prevents my interfering; and I have since been obliged to send a man away, requesting him to apply to his commanding officer.

Copy of a letter from John Mitchell, esq. agent for American prisoners of war at Halifax, to admiral sir John Borlase Warren, dated

Sir, 1*st December*, 1812.

Since the sailing of the last cartels, in which you were pleased to send home several Americans, who had been in his Britannic majesty's service, others, who are now on board the Centurion and Statira, have requested of me to procure their discharge, and to be sent home.

Will you, sir, have the goodness to direct an inquiry, and order the release of such as are citizens of the United States?

Besides the enclosed list, I am told there are others, whose names I have not.

I have the honour to be, &c. &c. &c.

(Signed) JOHN MITCHELL,
Agent, &c. &c.

Copy of a letter from admiral Sir John Borlase Warren, to John Mitchell, esq. agent for American prisoners of war at Halifax, dated

Sir, *1st December*, 1812.

I have the honour to acknowledge the receipt of your letter of this date, respecting some men, therein mentioned, on board his majesty's ships under my command, said to be citizens of the United States, and in reply beg to acquaint you, that whenever I have received representations from the captains of his majesty's ships, of any part of their crews being citizens of America, with sufficient proof of their nativity, I have directed their discharge from the service.

I must observe to you, that I cannot permit the interference of any applications from men belonging to his majesty's ships, but through their commanding officers; and in your department, of prisoners of war only, I shall at all times be most happy to receive your communications.

I have the honour to be, &c.

(Signed) JOHN BORLASE WARREN.

Copy of a letter from John Mitchell, esq. agent for American prisoners of war at Halifax, to admiral Sir John Borlase Warren, dated

Sir, *3d December*, 1812.

I had yesterday the honour to receive your letter, dated the 1st instant, and observe that you cannot permit the interference of any application from men on board his Britannic majesty's ships of war, but through their commanding officers.

Desirous of conforming as far as possible to established regulations, permit me the honour to inquire of your excellency, if by your letter I am to understand that I am not to receive the applications of seamen declaring themselves citizens of the United States, who are on board of his majesty's ships of war, and communicate the same to you? If this is the meaning, I shall most certainly conform, though I must lament the regulation.

I have the honour to be, &c.

(Signed) JOHN MITCHELL, *Agent*, &c. &c.

Copy of a letter from admiral Sir John Borlase Warren, to John Mitchell, esq. agent for American prisoners of war at Halifax, dated

Sir, *4th December*, 1812.

In reply to your letter, dated yesterday, I have to acquaint you, that whenever any address is made relative to men on

board his majesty's ships, it must be by the commanders of such vessels direct.

I cannot permit any application by other persons in time of war, but in the above mode.

It will always afford me pleasure to attend to your wishes in any respect relative to the situation or exchange of prisoners, or to afford any aid or relief in my power.

I have the honour to be, &c. &c.

(Signed) JOHN BORLASE WARREN.

From Commodore Rodgers to the Secretary of the Navy.

(Copy.)

Sir, *U. S. Frigate President, Boston, January* 14, 1813.

Herewith you will receive two muster-books of his Britannic majesty's vessels Moselle and Sappho, found on board the British packet Swallow.

As the British have always denied that they detained on board their ships of war American citizens, knowing them to be such, I send you the enclosed, as a public document of their own, to prove how illy such an assertion accords with their practice.

It will appear by these two muster-books, that, so late as August last, about an eighth part of the Moselle and Sappho's crews were Americans; consequently, if there is only a quarter part of that proportion on board their other vessels, that they have an infinitely greater number of Americans in their service than any *American* has yet had an idea of.

Any further comment of mine on this subject, I consider unnecessary, as the enclosed documents speak but too plainly for themselves.

I have the honour to be, &c.

(Signed) JNO. RODGERS.

The honourable Paul Hamilton, Secretary of the Navy.

Message from the President of the United States, communicating resolutions of the Legislature of Pennsylvania, on the subject of our foreign relations.

To the Senate and House of Representatives of the United States.

At the request of the legislature of Pennsylvania, conveyed through the governor of that state, I transmit to congress copies of its resolutions of the 16th December, 1812.

January 30*th*, 1813. JAMES MADISON.

COMMONWEALTH OF PENNSYLVANIA, *ss.*

Secretary's office, January 21*st*, 1813.

I certify that the annexed is a true copy of the original resolutions remaining among the rolls in this office. Witness my hand and seal.

N. B. BOILEAU, Secretary.

Viewing the present state of our foreign relations, we with astonishment and regret behold the emperor of the French withholding from our country those indemnifications which ought to have been rendered with liberality and promptness. After the aggressions of Great Britain had by long continued practice been regarded by her government as right—after the forbearance of the American government had assumed the appearance of cowardice—war is reluctantly, unavoidably, but decisively declared. Animated by the most sincere love of peace, the president of the United States, in the same despatch, announces to the British government the existence of war, and the equitable, easy, and honourable means by which its progress might be arrested, and its calamities permanently prevented; but this extraordinary proof of a humane and pacific disposition is treated with contempt. Familiarized with the slaughter of man around the globe, the British government prefers the effusion of human blood to a suspension of the inhuman practice of impressment, even during the short space of an armistice agreed on, for the purpose of negotiating a just and honourable peace; nay, notwithstanding the offer made by the government of the United States, to exclude British subjects from our merchantmen and navy. But what atrocities are too enormous to be found in that government? whose characteristical features are cruelty and perfidy; which stimulates the savage to drench his tomahawk and scalping knife in the blood of our frontier men, women, and infants; which, making the most solemn professions of friendship and peace, strives by the malignant breath of its secret emissaries to kindle in our nation dissatisfaction, discord, rebellion, and civil war, with all their sanguinary and horrible consequences. Thus is extinguished in the American government, and in every American bosom, the last hope of finding in the conduct of Great Britain towards the United States, a single voluntary act of justice or humanity.

Impressed with these considerations, and with others of a collateral and subordinate nature, we, the senate and house of representatives of the commonwealth of Pennsylvania, in general assembly met, do adopt the following resolutions:

Resolved, that the declaration of war against the united kingdom of Great Britain and Ireland, issued by the general government on the eighteenth of June last, was the result of solemn deliberation, sound wisdom, and imperious necessity.

Resolved, that the sword, being drawn, should never be sheathed till our wrongs are redressed, our commerce unfettered, and our citizens freed from the danger of British impressment, of imprisonment in the floating dungeons of the British navy, and the painful necessity of fighting the battles of an inveterate enemy, against their fathers, their brethren, their native country, and their friends.

Resolved, that to exert all the energies of his body and of his mind, and to devote his property to bring the existing war to a speedy, just, and honourable issue, and to teach our insolent foe, that the Americans are as free from timidity and weakness in battle as from covert and disguise in negotiating, is a duty which every citizen of the union owes to himself, to his country, and to his God.

Resolved, that with painful regret we contemplate the refusal by the executive authorities of some of the states in the union, to furnish, on the president's demand, their quota of militia for the defence of the sea-coast, and that with confidence we expect from the national legislature a prompt attention to this alarming and unprecedented occurrence.

Resolved, that the promptness and the zeal with which the governor of this commonwealth executed the military orders of the president since the commencement of hostilities, entitle him to the gratitude of this general assembly of Pennsylvania, and of the nation.

Resolved, that the governor of this commonwealth be instructed to transmit a copy of these resolutions to the president of the United States, with a request that he communicate them to congress.

JOHN TOD,
Speaker of the house of representatives.
P. C. LANE,
Speaker of the senate.

In senate, December 10th, 1812. Read and adopted.

JOSEPH A. M'JIMSEY,
Clerk of senate.

In the house of representatives, December 16th, 1812. Read and adopted.

Attest, GEORGE HECKERT,
Clerk of the house of representatives.

Message from the president of the United States, transmitting a proclamation of the British governor of Bermuda, providing for the supply of the British West Indies, by a trade under licenses; accompanied with a circular instruction, confining, if practicable, the trade to the eastern ports of the United States.

To the senate and house of representatives of the United States.

I lay before congress copies of a proclamation of the British lieutenant governor of the island of Bermuda, which has appeared under circumstances leaving no doubt of its authenticity. It recites a British order in council of the 26th of October last, providing for the supply of the British West Indies and other colonial possessions, by a trade under special licenses; and is accompanied by a circular instruction to the colonial governors, which confines licensed importations from ports of the United States, to the ports of the eastern states exclusively.

The government of Great Britain had already introduced into her commerce during war, a system, which, at once violating the rights of other nations, and resting on a mass of forgery and perjury unknown to other times, was making an unfortunate progress in undermining those principles of morality and religion, which are the best foundation of national happiness.

The policy now proclaimed to the world, introduces into her modes of warfare, a system equally distinguished by the deformity of its features, and the depravity of its character; having for its object to dissolve the ties of allegiance and the sentiments of loyalty in the adversary nation, and to seduce and separate its component parts, the one from the other.

The general tendency of these demoralizing and disorganizing contrivances, will be reprobated by the civilized and christian world; and the insulting attempt on the virtue, the honour, the patriotism, and the fidelity of our brethren of the eastern states, will not fail to call forth all their indignation and resentment; and to attach more and more all the states to that happy union and constitution, against which such insidious and malignant artifices are directed.

The better to guard, nevertheless, against the effect of individual cupidity and treachery, and to turn the corrupt projects of the enemy against himself, I recommend to the consideration of congress the expediency of an effectual prohibition of any trade whatever, by citizens or inhabitants of the United States, under special licenses, whether relating to persons or ports; and in aid thereof a prohibition of all exportations from the United States in foreign bottoms, few of which are actually employed; whilst

multiplying counterfeits of their flags and papers are covering and encouraging the navigation of the enemy.

February 24th, 1813. JAMES MADISON.

[*From the Bermuda Gazette of January* 16.]

BERMUDA ALIAS SOMERS' ISLANDS.

By his excellency brigadier general George Horsford, lieutenant governor and commander in chief, in and over these islands, &c. &c. &c.

A PROCLAMATION.

Whereas I have received a copy of his royal highness the prince regent's order in council, bearing date at the court at Carlton house, the 26th of October, 1812, which order is in the words following, viz. "Whereas during the late and present war, emergencies have at various times arisen, essentially affecting the necessary supply of the British West India islands, and of lands and territories belonging to his majesty on the continent of South America, and it has been found expedient and necessary, for the trade and commerce of said islands, lands, &c. and for the support of the inhabitants thereof, further to extend, for a limited time, the importation into, and exportation from, the said islands, lands, and territories; his royal highness the prince regent, in the name and on the behalf of his majesty, is pleased, by and with the advice of his majesty's privy council, to authorize and empower the governor or lieutenant governor of any of the islands or territories in the West Indies (in which description the Bahama islands and the Bermuda or Somers' islands are included), and of any of the lands or territories on the continent of South America, to his majesty belonging; and they are hereby respectively authorized and empowered to permit, until the 30th day of June, 1813, the importation into the said islands, lands, and territories, respectively, of staves and lumber, horses, mules, asses, neat cattle, sheep, hogs, and every other species of live stock and live provisions, and also of every other kind of provisions whatsoever, (beef, pork, butter, salted, dried, and pickled fish excepted,) in any unarmed ship or vessel not belonging to France, or to the subjects or inhabitants thereof, or of any port or place annexed to the territories of France, under the license of the said respective governor or lieutenant governor, which they are hereby empowered to grant in his majesty's name, subject to such instructions as his royal highness the prince regent, in the name and on the behalf of his majesty, shall, from time to time, think fit to issue, to be signified by one of his majesty's principal secretaries of state; and also to permit, under licenses to be granted as aforesaid, the exportation from the said

islands, lands, and territories, into which such importation as aforesaid shall be made, and in the ships aforesaid in which such importations shall have been made, of rum and molasses, and of any other goods and commodities whatsoever, except sugar, indigo, cotton wool, coffee, and cocoa: Provided, that such ships or vessels shall duly enter into, report, and deliver their respective cargoes, and reload at such ports only where regular custom houses shall have been established. But it is his royal highness' pleasure, nevertheless, and his royal highness, in the name and on behalf of his majesty, and by and with the advice aforesaid, is pleased to order, and it is hereby ordered, that nothing herein before contained shall be construed to permit the importation of staves, lumber, horses, mules, asses, neat cattle, sheep, hogs, poultry, live stock, live provisions, or any kind of provisions whatever, as aforesaid, into any of the said islands, lands, or territories in which there shall not be, at the time when such articles shall be brought for importation, the following duties on such articles of the growth or produce of the United States of America, namely:

On wheat flour, per barrel, not weighing more than one hundred and ninety-six pounds, neat weight,	£ 0	5	8
On bread or biscuit of wheat flour, or any other grain, per barrel, not exceeding more than one hundred pounds weight, - - - - - - - -	0	3	4
On bread, for every hundred pounds, made from wheat, or any other grain whatever, imported in bags or other packages than barrels, weighing as aforesaid, - - - - - - - -	0	3	4
On flour or meal made from rye, peas, beans, Indian corn, or other grain than wheat, per barrel, not weighing more than one hundred and ninety-six pounds, - - - - - - - -	0	3	4
On peas, beans, rye, Indian corn, callivances, or other grain, per bushel, - - - - - -	0	0	10
On rice, for every one hundred pounds, neat weight, and so in proportion for a less or larger quantity,	0	3	4
On shingles called Boston chips, not more than twelve inches in length, per thousand, - - - -	0	3	4
On shingles being more than twelve inches in length, per thousand, - - - - - - -	0	6	8
For every twelve hundred, commonly called one thousand, red oak staves, - - - - - -	1	0	0
For every twelve hundred, commonly called one thousand, white oak staves, and for every one thousand pieces of heading, - - - - - -	0	15	0

For every one thousand feet of white or yellow pine lumber, of all descriptions, - - - - 0 10 0
For every thousand feet of pitch pine lumber, 0 15 0
For all other kinds of wood or timber, not before enumerated, - - - - - - - - 0 15 0
For every thousand wood hoops, - - - 0 5 0
And in proportion for a less or larger quantity of all and every of the articles enumerated.
Horses, neat cattle, and other live stock, for every hundred pounds of the value thereof at the port or at the place of importation, - - - - - 10 0 0

And whereas, I have deemed it expedient and necessary to make known and publish the same within this his majesty's government: I do therefore issue this my proclamation, to the end that all persons whom it doth or may concern, being duly apprised thereof, may govern themselves accordingly.

Given under my hand, and the great seal of the islands, this 14th day of January, 1813, and in the 53d year of his majesty's reign.

GEORGE HORSFORD.

By his excellency's command,
ROBERT KENNEDY.

God save the king.

(Circular.)

Sir, *Downing Street, November* 9, 1812.

I have the honour of inclosing an order of council, which it has been judged expedient to issue, in consequence of the existing hostilities between his majesty and the United States of America. By this order you are authorized to grant licenses for importation of certain articles enumerated in the order, and for the exportation of certain articles in the same order, in the ships in which the importation shall be made.

This intercourse is to be subject to the condition stated in the order, and such instructions as you may from time to time receive from one of his majesty's principal secretaries of state. I am commanded by his royal highness the prince regent to signify to you, that in granting the licenses for importation of the above enumerated articles, you take care that the articles, so to be imported, be severally enumerated in the body of the license; that the port or place from whence the importation is to be made, and the port to which the vessel is bound, is also to be inserted in the body of the license.

That if the person applying for the license shall not be able to state the name of the vessel on board of which the proposed importation is to be made, the condition of the license should be,

islands, lands, and territories, into which such importation as aforesaid shall be made, and in the ships aforesaid in which such importations shall have been made, of rum and molasses, and of any other goods and commodities whatsoever, except sugar, indigo, cotton wool, coffee, and cocoa: Provided, that such ships or vessels shall duly enter into, report, and deliver their respective cargoes, and reload at such ports only where regular custom houses shall have been established. But it is his royal highness' pleasure, nevertheless, and his royal highness, in the name and on behalf of his majesty, and by and with the advice aforesaid, is pleased to order, and it is hereby ordered, that nothing herein before contained shall be construed to permit the importation of staves, lumber, horses, mules, asses, neat cattle, sheep, hogs, poultry, live stock, live provisions, or any kind of provisions whatever, as aforesaid, into any of the said islands, lands, or territories in which there shall not be, at the time when such articles shall be brought for importation, the following duties on such articles of the growth or produce of the United States of America, namely:

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On bread, for every hundred pounds, made from wheat, or any other grain whatever, imported in bags or other packages than barrels, weighing as aforesaid, - - - - - - - -	0	3	4
On flour or meal made from rye, peas, beans, Indian corn, or other grain than wheat, per barrel, not weighing more than one hundred and ninety-six pounds, - - - - - - - -	0	3	4
On peas, beans, rye, Indian corn, callivances, or other grain, per bushel, - - - - - -	0	0	10
On rice, for every one hundred pounds, neat weight, and so in proportion for a less or larger quantity,	0	3	4
On shingles called Boston chips, not more than twelve inches in length, per thousand, - - - -	0	3	4
On shingles being more than twelve inches in length, per thousand, - - - - - - -	0	6	8
For every twelve hundred, commonly called one thousand, red oak staves, - - - - - -	1	0	0
For every twelve hundred, commonly called one thousand, white oak staves, and for every one thousand pieces of heading, - - - - - -	0	15	0

For every one thousand feet of white or yellow pine lumber, of all descriptions, - - - - 0 10 0
For every thousand feet of pitch pine lumber, 0 15 0
For all other kinds of wood or timber, not before enumerated, - - - - - - - - 0 15 0
For every thousand wood hoops, - - - 0 5 0
And in proportion for a less or larger quantity of all and every of the articles enumerated.
Horses, neat cattle, and other live stock, for every hundred pounds of the value thereof at the port or at the place of importation, - - - - - 10 0 0

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This intercourse is to be subject to the condition stated in the order, and such instructions as you may from time to time receive from one of his majesty's principal secretaries of state. I am commanded by his royal highness the prince regent to signify to you, that in granting the licenses for importation of the above enumerated articles, you take care that the articles, so to be imported, be severally enumerated in the body of the license; that the port or place from whence the importation is to be made, and the port to which the vessel is bound, is also to be inserted in the body of the license.

That if the person applying for the license shall not be able to state the name of the vessel on board of which the proposed importation is to be made, the condition of the license should be,

that the name of the vessel, the name of the master, the tonnage and her national character, be endorsed on the license on quitting her port of clearance, and that the condition of her license should also be, that she proceed direct to the port of her destination.

Although the order in council authorizes you to permit the importations of the enumerated articles in any vessels not French, you will not grant these licenses to any except to vessels in amity with his majesty, unless you are convinced that the island will be exposed to serious embarrassments by so confining the importation in question.

Whatever importations are proposed to be made under the order, from the United States of America, should be by your licenses confined to the ports in the EASTERN STATES EXCLUSIVELY, unless you have reason to suppose that the object of the order would not be fulfilled if licenses are not also granted for the importations from the other ports in the United States.

With respect to the licenses for exportation on board the vessels in which an importation shall have been previously made, you will observe that the order does not require that the port of destination in such case shall be the same as that from whence the importation had been made, but you will take care that in the body of the license be inserted the name of the vessel, her tonnage, the name of the master, and her national character, the port of clearance, and the port of destination; and that the cargo be described in the body of the license, according to the words of the order, viz. rum, molasses, or any other goods and commodities whatsoever, except sugar, indigo, cotton wool, coffee, and cocoa.

You will take care that the term of the import license does not exceed the term of the order on which it is granted, and that you do not issue any license for exportation under this order, after that period.

The fee payable for each license is not in any case to exceed the sum of one pound one shilling.

I have the honour to be, sir,

Your most obedient humble servant.

(Signed) ——— ———.

To Lt. Col. Governor Harcourt, &c. &c.

Message from the president of the United States, transmitting a correspondence relative to the repeal of the Berlin and Milan decrees; and touching the relations between the United States and France, in pursuance of a resolution of the first of March, 1813.

To the house of representatives of the United States.

I transmit to the house of representatives a report of the secretary of state, complying with their resolution of the 1st instant.

March 3, 1813. JAMES MADISON.

The secretary of state, to whom was referred the resolution of the house of representatives of the 1st instant, has the honour to submit to the president the enclosed papers marked A and B.

All which is respectfully submitted.

JAMES MONROE.

Department of State, March 3, 1813.

A.

Extract of a letter from Joel Barlow, esq. to the Secretary of State, dated

Paris, May 2, 1812.

I have the honour to enclose herewith the copy of my note of yesterday to the duke of Bassano. The importance of the objects, and the urgency of the occasion, I hope will justify the solicitude with which I have pressed the propositions.

The result, as far as it may be known within a few days, shall be transmitted by the Wasp. The Hornet sailed from Cherbourg the 26th of April, with orders to land a messenger in England with my despatches from Mr. Russell, but not to wait a return from London.

(Enclosed in Mr. Barlow's letter of May 2, 1812, to the Secretary of State.)

Extract of a letter from Joel Barlow, esq. to the duke of Bassano, dated

Paris, May 1, 1812.

In the note I had the honour to address to your excellency on the 10th of November last, the spirit of the English government was so far noticed as to anticipate the fact now proved by experience, that its orders in council, violating the rights of neutrals, would not be revoked. The declaration of the prince regent of the 21st of April, has placed that fact beyond all question. In doing this he has repeated the assertion so often advanced by his ministers and judges, that the decrees of France of a similar character are likewise unrevoked.

You will notice that he finds a new argument for this conclusion in your excellency's late report to the emperor concerning neutral rights, in which you avoid taking notice of any repeal or modification of these decrees, or of their non-application to the

United States. We know indeed that they do not apply to the United States, because we do not suffer our flag to be denationalized in the manner evidently contemplated by the emperor in the rule he meant to establish. But it would have been well if your excellency had noticed their non-application to the United States, since his majesty has uniformly done it in his decisions of prize causes since November, 1810.

It is much to be desired that the French government would now make and publish an authentic act, declaring the Berlin and Milan decrees, as relative to the United States, to have ceased in November, 1810, declaring that they have not been applied in any instance since that time, and that they shall not be so applied in future.

The case is so simple, the demand so just, and the necessity so urgent, that I cannot withhold my confidence in the prompt and complete success of my proposition.

Extract of a letter from Mr. Barlow to Mr. Monroe, dated Paris, May 12, 1812.

After the date of my letter, of which I have the honour to enclose you a copy, I found from a pretty sharp conversation with the duke of Bassano, that there was a singular reluctance to answering my note of the 1st of May. Some traces of that reluctance you will perceive in the answer which finally came, of which a copy is here enclosed. This, though dated the 10th, did not come to me till last evening. I consider the communication to be so important in the present crisis of our affairs with England, that I despatch the Wasp immediately to carry it to Mr. Russell, with orders to return with his answer as soon as possible.

I am confident that the president will approve the motive of my solicitude in this affair, and the earnest manner in which I pressed the minister with it as soon as my knowledge of the declaration of the prince regent enabled me to use the argument that belonged to the subject. When, in the conversation above alluded to, the duke first produced to me the decree of the 28th of April, 1811, I made no comment on the strange manner in which it had been so long concealed from me, and probably from you. I only asked him if that decree had been published. He said no, but declared it had been communicated to my predecessor here, and likewise sent to Mr. Serrurier with orders to communicate it to you. I assured him it was not among the archives of this legation; that I never before had heard of it; and since he had consented to answer my note I desired him to send me, in that official manner, a copy of that decree, and of

any other documents that might prove to the incredulous of my country (not to me) that the decrees of Berlin and Milan were in good faith and unconditionally repealed with regard to the United States. He then promised me he would do it, and he has performed his promise.

I send you a copy of the April decree, as likewise of the letter of the grand judge and that of the minister of finances, though the two latter pieces have been before communicated to our government and published.

[Translation.]

The duke of Bassano to Mr. Barlow.

Sir, *Paris, May* 10, 1812.

In conversing with you about the note which you did me the honour to address to me on the 1st of May, I could not conceal from you my surprise at the doubt which you had expressed in that note, respecting the revocation of the decrees of Berlin and Milan. That revocation was proven by many official acts, by all my correspondence with your predecessors, and with you, by the decisions in favour of American vessels. You have done me the honour to ask a copy of the letters which the grand judge and the minister of the finances wrote on the 25th of December, 1810, to secure the first effects of that measure, and you have said, sir, that the decree of the 28th of April, 1811, which proves definitively the revocation of the decrees of Berlin and Milan, in regard to the Americans, was not known to you.

I have the honour to send you, as you have desired, a copy of these three acts: you will consider them without doubt, sir, as the plainest answer which I could give to this part of your note.

As to the two other questions to which that note relates, I will take care to lay them before the emperor. You know already, sir, the sentiments which his majesty has expressed in favour of American commerce, and the good dispositions which have induced him to appoint a plenipotentiary to treat with you on that important interest.

Accept, sir, &c.

(Signed) THE DUKE OF BASSANO.

Joel Barlow, esq. &c. &c.

[Translation.]

Palace of St. Cloud, April 28, 1811.

Napoleon, emperor of the French, &c. &c.

On the report of our minister of foreign relations:

Seeing by a law passed on the 2d of March, 1811, the congress of the United States has ordered the execution of the

provisions of the act of non-intercourse, which prohibits the vessels and merchandise of Great Britain, her colonies and dependencies, from entering into the ports of the United States:

Considering that the said law is an act of resistance to the arbitrary pretensions consecrated by the British orders in council, and a formal refusal to adhere to a system invading the independence of neutral powers, and of their flag, we have decreed, and do decree as follows:

The decrees of Berlin and Milan are definitively, and to date from the 1st day of November last, considered as not having existed (*non avenus*) in regard to American vessels.

(Signed) NAPOLEON.

By the emperor.

The Minister Secretary of State.

(Signed) THE COUNT DARA.

B.

Extract of a letter from Mr. Barlow to the duke of Bassano, dated

Sir, *Paris, October* 25, 1812.

In consequence of the letter you did me the honour to write me on the 11th of this month, I accept your invitation and leave Paris to-morrow for Wilna, where I hope to arrive in 15 or 18 days from this date. My secretary of legation and one servant will compose all my suit. I mention this to answer to your extreme goodness in asking the question, and your kind offer of finding me a convenient lodging. I hope the trouble you will give yourself in this will be as little as possible.

The negotiation on which you have done me the honour to invite me at Wilna is so completely prepared in all its parts between the duke of Dalberg and myself, and, as I understand, sent on to you for your approbation about the 18th of the present month, that I am persuaded, if it could have arrived before the date of your letter, the necessity of this meeting would not have existed, as I am confident that his majesty would have found the project reasonable and acceptable in all its parts, and would have ordered that minister to conclude and sign both the treaty of commerce and the convention of indemnities.

[Translation.]

The duke of Bassano to Mr. Barlow.

Sir, *Wilna, October* 11, 1812.

I have had the honour to make known to you how much I regretted, in the negotiation commenced between the United States and France, the delays which inevitably attend a corres-

pondence carried on at so great a distance. Your government has desired to see the epoch of this arrangement draw near. His majesty is animated by the same dispositions, and willing to assure to the negotiation a result the most prompt, he has thought that it would be expedient to suppress the intermediaries and to transfer the conference to Wilna. His majesty has in consequence authorized me, sir, to treat directly with you if you will come to this town. I dare hope that, with the desire which animates us both to conciliate such important interests, we will immediately be enabled to remove all the difficulties which until now have appeared to impede the progress of the negotiation.

I have apprized the duke of Dalberg that his mission was thus terminated, and I have laid before his majesty the actual state of the negotiation, to the end that when you arrive at Wilna the different questions being already illustrated (*eclaircies*) either by your judicious observations or by the instructions I shall have received, we may, sir, conclude without delay an arrangement so desirable and so conformable to the mutually amicable views of our two governments.

Accept, sir, &c.

(Signed) THE DUKE OF BASSANO.

Mr. Barlow to the Secretary of State.

Sir, *Paris, October* 25, 1812.

By the letters from the duke of Bassano and my answer, copies of which are herewith enclosed, you will learn that I am invited to go to Wilna, and that I have accepted the invitation. Though the proposal was totally unexpected, and on many accounts disagreeable, it was impossible to refuse it without giving offence, or at least risking a postponement of a negotiation which I have reason to believe is now in a fair way to a speedy and advantageous close.

From the circumstances which have preceded and which accompany this proposition, I am induced to believe that it is made with a view of expediting the business. There may indeed be an intention of coupling it with other views not yet brought forward. If so, and they should extend to objects beyond the simplicity of our commercial interests and the indemnities which we claim, I shall not be at a loss how to answer them.

I shall have the honour to write you as soon as possible from Wilna, and shall return to Paris without any unnecessary delay.

I remain, &c.

(Signed) J. BARLOW.

Honourable James Monroe, &c.

Letter from the Secretary of the Treasury, transmitting his annual report on the state of the finances; in obedience to the act to establish the Treasury Department.

Sir, *Treasury Department, December 4th*, 1812.

I have the honour to enclose a report prepared in obedience to the act, entitled "An act to establish the Treasury Department."

I have the honour to be, very respectfully, sir, your obedient servant,

ALBERT GALLATIN.

The Honourable the Speaker of the House of Representatives.

In obedience to the directions of the "Act supplementary to the act, entitled 'An act to establish the Treasury Department," the Secretary of the Treasury respectfully submits the following

REPORT AND ESTIMATES.

1. *To the end of the year* 1812.

The actual receipts into the Treasury, during the year ending on the 30th of September, 1812, *have consisted of the following sums, viz.:*

Customs, sales of lands, arrears, repayments, and all other branches of revenue, amounting together, as will appear more in detail by the statement (E) to	$ 10,934,946 90
On account of the loan of eleven millions of dollars authorized by the act of March 14, 1812, - - - - -	5,847,212 50
Total amount of receipts - -	$ 16,782,159 40
Making, together with the balance in the Treasury, on the 1st of October, 1811, and amounting to - - -	$ 3,947,818 36
An aggregate of - - - -	$ 20,729,977 76

The disbursements during the same year have been as followeth, viz.:

Civil department, including miscellaneous expenses, and those incident to the intercourse with foreign nations, -	$ 1,823,069 35
Army, militia, volunteers, for-	

tifications, arms, and arsenals	$ 7,770,300	
Navy department, - -	3,107,501 54	
Indian department, - -	230,975	
		11,108,776 54
Interest on the public debt,	2,498,013 19	
On account of the principal of do.	2,938,465 99	
		5,436,479 18
Amounting together, as will appear more in detail by the statement (E), to		18,368,325 07
And leaving in the treasury, on the 30th of September, 1812, a balance of		2,361,652 69
		$ 20,729,977 76

The statement (Ee) exhibits in detail the payments made by the treasury department for the several branches of the military and naval expenditure, during the same year (from 1st October, 1811, to 30th September, 1812); and also during the two last two months (October and November, 1812). The receipts for the last quarter of the year 1812, on account of both revenue and loans, are estimated at 9,000,000 dollars; and the expenditures (including about 1,500,000 dollars on account of the principal of the public debt, and 1,000,000 for the militia) at nearly the same sum.

The sums obtained or secured on loan during this year, amount, so far as has been ascertained at the treasury to [a] - -		$ 13,100,200
Of which there was received prior to 1st October, 1812, as above stated, - -	$ 5,847,212 50	
Received or to be received prior to 1st January, 1813,	6,202,987 50	
To be received in January and February, 1813, - -	1,050,000	
		13,100,200

This sum was obtained on the following terms, viz:

For six per cent. stock irredeemable till 1st January, 1825, and afterwards redeemable at the pleasure of the United States, - - - - - -	$ 7,415,200

[a] The amount was stated in the president's message at the commencement of the session at eleven millions of dollars. The other two millions have been contracted for subsequent to its date.

On temporary loans at the rate of six per cent. a year, and reimbursable as followeth, viz:		
In 1813, - - - -	$ 1,350,000	
1814, - - - - -	750,000	
1817, - - - - -	50,000	
		2,150,000
For treasury notes, bearing an annual interest of 5 2/5 per cent. and reimbursable one year after date, - - - - - -		3,535,000
		$ 13,100,200

From the present demand, it appears probable that the residue of the treasury notes, authorized by the act of 30th June last, and amounting to $ 1,465,000, will be disposed of prior to the 1st of March next.

It may be proper also to state, that, notwithstanding the addition thus made to the public debt, and although a considerable portion has been remitted from England and brought to market in America, the public stocks, which had at first experienced a slight depression, have been for the last three months and continue to be at par.

II. *Year* 1813.

The net revenue arising from duties on merchandise and tonnage, which accrued during the year 1810, amounted to $ 12,513,490

The net revenue arising from the same sources, which accrued during the year 1811, amounted, as will appear by the estimates (A) and (B), to - - - - - - $ 7,902,560

The same revenue for the year 1812 is estimated at $ 12,500,000

Of which sum, about 5,500,000 arise from duties on the late importations from Great-Britain.

The custom-house bonds outstanding on the 1st day of January, 1813, and falling due in that year, are estimated, after deducting bad debts, at 11,250,000 dollars: and it is believed that the probable amount of receipts from that source into the treasury, during the year 1813, may be safely estimated at 11,500,000 dollars.

The sales of public lands north of the river Ohio, during the year ending on the 30th September, 1811, and after deducting the lands which have reverted to the U. States, have amounted, as appears by the statement (C), to 390,000 acres; and the payments by purchasers to 790,000 dollars. The Indian war may

affect the sales, and perhaps, to a certain extent, the amount of payments. It is, however, believed that that branch of revenue may, together with some other small items, be estimated for the ensuing year at 500,000 dollars: making the whole amount of probable receipts into the treasury for the year 1813 (exclusively of loans) - - - - - - - $ 12,000,000

The expenditures for that year are estimated as followeth, viz.:

1. Expenses of a civil nature, both foreign and domestic, - - $ 1,500,000

2. Public debt, viz.:

Interest, including that on new loans of the years 1812 and 1813, - - - $ 3,300,000

Reimbursement of six per cent. and deferred stocks, and of temporary loans, and treasury notes, falling due in 1813, and estimated amount of purchases of stock, - - 5,200,000

8,500,000

3. Military establishment:

The estimates of the secretary of war are, with respect to the army, predicated on the employment of the whole force authorised by law, and amounting to 36,700 men of every description. Adding to this the expense incident to the service of volunteers and militia, and also the increase of pay of the army, the appropriation for arming the militia, and 400,000 dollars of the unexpended balance for fortifications, the whole contemplated expense may be estimated as follows:

Army—Pay, subsistence, bounties, clothing, and hospitals,	$ 9,350,000	
Ordnance and armories,	1,850,000	
Quarter Master's department and contingencies, - -	2,500,000	
Fortifications, -	900,000	
Arming the militia,	200,000	
Volunteers and militia in actual service,	2,000,000	
Indian department,	200,000	
		17,000,000

4. Naval establishment:

The estimates of the secretary of the navy are predicated on the employment of the following force, viz.:

Commissioned and warrant officers, - - - -	871	
Petty officers, seamen, and boys, viz.:		
For nine frigates and nine smaller vessels, - -	3,620	
For 200 gun boats and other vessels, - -	7,000	
Marines, including officers, -	1,869	
Total,	13,360	

And the expense is estimated as followeth, viz.:

Pay, provisions, and medicine,	$ 3,290,000	
Ordnance, - - -	100,000	
Repairs, contingencies, and navy yards, adding the annual appropriation of 200,000 dollars for timber,	1,125,000	
Marine corps, - - -	410,000	
		4,925,000
Amounting altogether to, - - -		$ 31,925,000
The receipts on account of the revenue having been estimated at - - - - - - - -		12,000,000
Leaves a balance to be provided for by loans of - - -		$ 19,925,000

Of this sum more than one million is already contracted for, and there remains on hand a balance of about a million and a half in treasury notes, not yet disposed of. An authority to issue new notes for about two millions and a half more, being the amount reimbursable in 1813, will still keep the whole amount issued at five millions, and reduce the amount of the loan to about fifteen millions of dollars.

In order to facilitate the loan, and perhaps to improve its terms, it may however be eligible to leave some discretion in the executive as to the respective amounts of stock and notes to be issued; which may be advantageously varied according to circumstances, without increasing the aggregate of both.

The preceding estimates do not embrace the expense incident to the proposed increase of the navy, nor any other expenditure not yet authorised by law. In order to meet any new expense which may thus be authorised by congress, it will therefore be necessary to increase the loan to a corresponding amount.

The sums received or to be received on loan, during the calendar year 1812, have been stated (so far as ascertained on the 1st of December at the treasury) at - $ 12,950,200

The payments on account of the principal of the debt during the same year, though not yet precisely ascertained, may be estimated at 2,350,200

Making the actual increase of debt during that year - - - - - - $ 10,600,000

It appears, according to the preceding estimate, that the whole sum to be borrowed during the year 1813 will amount to about twenty millions of dollars; and that the payments on account of the principal of the public debt will exceed five millions, making the actual increase of debt during that year $ 15,000,000

Of the revenue which will accrue during the year 1813, and on which the receipts of the year 1814 will principally depend, it is not practicable at this moment to form a correct estimate. So far as may be inferred from the experience of the short period which has elapsed since the declaration of war, it is not probable that the revenue derived from customs will exceed the amount of $ 5,000,000, at which it had been estimated in a former communication. The duties accrued or which will accrue during the last six months of this year, after deducting drawbacks and expenses of collection, are estimated at less than $ 9,000,000. Which, deducting about 5,500,000 dollars on account of duties on the late importations from Great Britain, and one million for the duties on importations from Calcutta and China, would not leave more than 2,500,000 dollars for the ordinary revenue on those branches of commerce which are permitted by law, and from which the United States will not be nearly excluded by the war.

All which is respectfully submitted.

ALBERT GALLATIN.

Treasury Department, December 1st, 1812.

A.

A statement exhibiting the Amount of Duties which accrued on Merchandise, Tonnage, Passports and Clearances, of Debentures issued on the Exportation of Foreign Merchandise, of Payments for Bounties and Allowances, and for Expenses of Collection, during the years 1810 and 1811.

	1810.	1811.
Duties on merchandise	16,601,711 71	10,427,412 21
tonnage	169,161 24	124,363 30
passports and clearances	23,428 00	19,737 70
Debentures issued	3,839,160 00	2,227,245 00
Bounties and allowances	2,268 05	784 13
Gross revenue	12,952,872 90	(a) 8,343,484 08
Expenses on collection	439,382 87	440,924 46
Net revenue	12,513,490 03	7,902,559 62

(a) Gross revenue for the year 1811,	8,343,484 08
Deduct interest and storage,	19,026 60
Gross revenue per statement (B.)	8,324,457 48

A statement of the Amount of American and Foreign Tonnage employed in Foreign Trade for the year 1811, as taken from the Records of the Treasury.

American tonnage in foreign trade,	Tons, 948,247
Foreign tonnage,	33,203
Total in the foreign trade of the United States,	981,450
Proportion of foreign tonnage to the whole amount of tonnage employed in the foreign trade of the United States,	3.4 to 100

Treasury Department, Register's Office, November 18th, 1812.

JOSEPH NOURSE, *Register.*

B.

A Statement exhibiting the value and quantities respectively of Merchandise, on which duties actually accrued during the year 1811 (consisting of the difference between articles paying duty imported, and those entitled to drawback re-exported), and also the net revenue which accrued that year, from duties on Merchandise, Tonnage, Passports, and Clearances.

Goods paying Duties ad valorem.

15,951,507	dollars at	12½	per cent.	1,993,938 38
2,524,551		15		378,682 65
131,114		20		26,222 80
18,607,172	addl. duty on	$18,604,453	at 2½ per cent.	465,111 32
				2,863,955 15

Spirits,	3,447,873	gals. at 27.6 cents	(average)	950,603 86
Sugar,	55,332,314	pounds, 2.5	do.	1,391,731 56
Wines,	1,614,654	gallons, 31.3	do.	505,111 35
Teas,	2,557,329	pounds, 21.1	do.	540,594 24
Coffee,	17,468,398	do. 5	cents,	873,419 90
Molasses,	8,500,019	gallons, 5	do.	425,000 95
All other articles,				543,292 02
				8,093,709 03

From which deduct		
Bounties,	784 13	
Duties refunded, after deducting therefrom duties collected on merchandise, the particulars of which could not be ascertained, and difference in calculation,	42,468 59	
		43,252 72
		8,050,456 31
3½ per cent. retained on drawback,		80,952 67
Extra duty of 10 per cent. on merchandise imported in foreign vessels,		48,947 50
Net amount of duties on merchandise,		8,180,356 48
Duties on tonnage,		105,890 43
Light money,		18,472 87
Duties on passports and clearances,		19,737 70
Gross amount of revenue as per statement (A),		8,324,457 48
Deduct expenses on collection,		440,924 46
Net revenue,		$7,883,533 02

Treasury Department, Register's Office, November 18th, 1812.

JOSEPH NOURSE, *Register.*

C.

Statement of the lands sold in the districts of Marietta, Zanesville, Steubenville, Canton, Chillicothe, Cincinnati, Jeffersonville, and Vincennes, from the 1st of October, 1811, to the 30th September, 1812; showing also the amount of receipts from individuals and payments made by Receivers during the same time; with the balance due, both on the 1st October, 1811, and 1st October, 1812.

Lands sold, after deducting lands reverted, acres	391,664 65
Purchase money, $849,632 09½	
Lands reverted, acres 94,075 63	
In hands of receivers, Oct. 1, 1811	203,408 77½
Due by individuals, Oct. 1, 1811	1,496,371 67¾
Receipts by Receivers.	
On account of purchase money,	746,897 43
On account of forfeitures,	47,431 26¼
Payments by Receivers.	
Into the treasury,	782,543 31
The part for expenses,	29,045 91
Repayments,	2,054 12
Balance due, Oct. 1, 1811.	
From individuals,	1,599,106 33¾
By receivers,	184,094 13¾
Total balance due Oct 1, 1812,	$ 1,783,200 47½

Total Sales of Land.

	Acres.	*Dollars.*
From the opening of the land offices to 1st Oct. 1811,	3,374,843 43¼	7,130,852 26½
Amount sold since, as above stated,	391,664 65	849,632 09½
	3,766,508 08¼	7,980,484 36

Statement of the lands sold in the Mississippi territory from the 1st of October, 1811, to the 30th of September, 1812; showing also the amount of receipts from individuals and payments made by receivers during the same time; with the balance due, both on the 1st of October, 1811, and 1st October, 1812.

Lands sold, after deducting lands reverted, acres	144,872 75½
Purchase money, $	299,904 36¾
Lands reverted, acres	5,529 86
In hands of receivers, Oct. 1, 1811,	33,717 49⅕
Due by individuals, Oct. 1, 1811,	474,541 23½
Receipts by Receivers.	
On account of purchase money,	121,377 41¼
On account of forfeitures,	541 36
Payments made by Receivers.	
Into the treasury,	85,675 77
The part for expenses,	5,920 11
Repayments,	231 06
Balance due, Oct. 1, 1812.	
From individuals,	653,068 18¾
By receivers,	63,809 32¾
Total balance due Oct. 1, 1812,	716,877 51⅕

Total Sales of Lands.

	Acres.	*Dollars.*
Amount of lands sold from the opening of the offices to the 1st Oct. 1811,	339,309 13⅕	703,268 66
Amount sold since, as above stated,	144,872 75½	299,904 36¾
	484,181 89	1,003,173 02¾

General Land Office, 3d December, 1812.

EDWARD TIFFIN, *Commissioner.*

D.

An estimate of the principal redeemed of the debt of the United States, from the 1st October, 1811, to the 30th September, 1812; and also from April 1, 1801, to September 30, 1812.

Redemption from 1st October, 1811, to 30th September, 1812.

The amount of warrants issued on the treasurer of the United States, on account of the interest of the domestic debt, and of the reimbursement of the old six per cent. and deferred stocks, from the 1st October, 1811, to the 30th September, 1812, exclusive of a repayment of dollars 24,927 30, and of the reimbursement of part of the converted stock, and the purchase of Louisiana six per cent. stock, as stated below, was $ 3,210,418 28

Deduct interest, which accrued during the same period,	1,686,821 89	
Reimbursement of the old six per cent. and deferred stocks		1,523,596 39
Ditto of converted six per cent. stock		1,294,452 29
Purchase of Louisiana six per cent. stock (cost $ 116,761 17)		118,500
Payments to foreign officers, and for certain parts of the domestic debt		1,917 31
		(a) 2,938,465 99

Redemption from 1st April, 1801, to 30th September, 1811, per the secretary's report of 25th November, 1811.

Reimbursement of the old six per cent. and deferred stocks,		13,312,846 57
Ditto, of the navy six per cent. stock,		711,700
Ditto, of the five and a half per cent. stock,		1,847,500
Ditto, of the four and a half per cent. stock,		176,000
Ditto, and purchase of eight per cent. stock,		6,359,600
Ditto, ditto, of exchanged six per cent. stock,		6,293,351 12
Payments for lands, in certificates of the debt of the United States,		268,240 70
Ditto, to foreign officers, and for certain parts of the domestic debt,		90,092 58
Ditto, on account of domestic loans,		3,440,000
Reimbursement of the foreign debt,		10,075,004
		42,574,334 97

Total principal redeemed, from 1st April, 1801, to 30th September, 1812,		45,512,800 96
To this sum must be added, difference between the nominal amount of three per cent. stock extinguished, and that of converted stock, issued under the act of 11th February, 1807,	$ 1,001,458 45	
Difference between the nominal amount of six per cent. and deferred stocks, as here stated, and the amount actually reimbursed, as per accounts settled at the treasury, arising from unclaimed dividends and arrears of interest,	324,274 91	
	1,325,733 36	
From which deduct reimbursement on stock, paid in for lands, prior to the 30th Sept. 1805,	4,229 90	
True amount reimbursed, from 1st April, 1801, to 30th September, 1812,		1,321,503 46
		$ 46,834,304 42

(*a*) There was received on loan from 1st October, 1811, to 30th September, 1812,		$ 5,847,212 50
From which deducting the principal redeemed,		2,938,465 99
Leaves for the actual increase of debt during that period,		2,908,746 51

E.

Statement of receipts and payments at the treasury of the United States, from 1st October, 1811, to 30th September, 1812.

Cash in the treasury, subject to warrant, October 1, 1811,	$ 3,947,818	36
Received for the proceeds of the		
Customs,	9,907,990	80
Arrears of internal revenues and direct tax,	7,066	07
Sales of public lands,	822,599	64
Cents and half cents coined at the mint,	7,975	95
Fees on patents,	6,990	00
Public arms sold to states,	29,434	50
Public property sold,	1,119	51
Postage of letters,	85,000	00
Salt works in the Illinois territory,	7,910	25
Fines, penalties, and forfeitures,	80	95
Consular receipts under act of April 14, 1792,	1,161	14
Treasurer's drafts, lost or destroyed,	52	50
Repayments,	57,565	59
Loan,	5,847,212	50
Dollars	20,729,977	76

Payments on the following accounts, viz.:

Civil expenses, both foreign and domestic, viz.:

Civil list proper,	816,655	13
Light house establishment,	131,420	04
Grants and miscellaneous claims,	22,073	58
Marine hospital establishment,	56,062	06
Mint establishment,	15,206	22
Public buildings in Washington,	14,000	00
Furniture for the president's house,	300	00
Military pensions,	94,358	44
Unclaimed merchandise,	280	02
Purchase of books for congress,	1,000	00
Third census,	68,799	11
Consular receipts, under act of April 14, 1792,	1,161	14
Prize money for the navy pension fund,	478	00
Relief of the citizens of Venezuela,	47,840	73
Survey of the coast of the United States,	13,308	68
Better accommodation of the general post-office, &c.	11,853	91
Prisoners of war,	5,000	00
Trading houses with the Indians,	16,870	00
Road from Cumberland to the Ohio,	38,020	75
Roads within the state of Ohio,	20,000	00
Ditto, under treaty of Brownstown,	445	50
Surveys of public lands,	17,264	19
Ascertaining land titles in Louisiana,	19,101	48
Intercourse with foreign nations, Barbary treaties, seamen,	364,039	21
Contingent expenses of intercourse with foreign nations,	42,538	30
American claims assumed by the Louisiana convention,	4,992	86

Military Expenses, viz.:

Military department, fortifications, ordnance, militia, volunteers,	7,770,300	00
Indian department,	230,975	00

Naval Expenses, viz.:

Naval department, marine corps, navy yards,	3,107,501	54

Public Debt, viz.:

Interest and charges,	2,498,013	19
Reimbursement of principal,	2,938,465	99
Balance in the treasury, subject to warrant, September 30, 1812,	2,361,652	69
Dollars	20,729,977	76

Ee.

Statement of payments made at the Treasury, during the year ending on the 30th September, 1812, and during the months of October and November, 1812, for the several branches of expenditure in the War and Navy departments.

WAR.

Heads of expenditure.	*Year ending 30th Sept.* 1812.	*October and November*, 1812.
Bounties and premiums,	411,000	
Pay,	935,000	
Subsistence,	1,549,000	250,000
Clothing,	998,000	500,000
Forage,	25,000	
Camp equipage, &c.	365,000	5,131 83
Purchase of horses,	52,000	100,000
Ordnance, and purchase of sulphur,	690,000	23,316 50
Arsenals and armories,	341,000	50,000
Medical and hospital department,	126,000	54,000
Quarter master's department,	990,000	653,760
Corps of artificers,	2,000	
Seven companies of rangers,	108,772	11,250
Militia and their equipment,	546,800	626,000
Volunteers,	210,000	150,000
Fortifications,	260,000	
Contingent expences,	151,228	50,000
Miscellaneous expences,	9,500	9,650
Indian department,	230,975	50,000
Dollars,	8,001,275	2,533,108 33

Balance in the hands of the Treasurer, on account of the war department, 1st Oct. 1811, $ 214,986 93

ditto, ditto, 1st Oct. 1812, 760,331 13

NAVY.

Heads of expenditure.	*Year ending 30th Sept.* 1812.	*October and November*, 1812.
Pay,	870,000	300,000
Provisions,	486,263 34	75,000
Medical and hospital,	46,000	
Ordnance and saltpetre,	140,000	168,000
Repairs,	1,085,000	200,000
Purchase of captured vessels,		50,000
Purchase of timber,	25,000	100,000
Navy yards,	106,000	
Contingent expenses,	128,000	70,000
Miscellaneous expenses,	3,165 70	
Marine corps,	218,072 50	30,000
Dollars,	3,107,501 54	993,000

Balance in the hands of the Treasurer, on account of the navy department, 1st Oct. 1811, $ 116,847 32

ditto, ditto, 1st Oct. 1812, 221,839 32

13th CONGRESS——1st SESSION.

Message from the President of the United States, to the two houses of Congress, at the commencement of the first session of the thirteenth Congress.

Fellow citizens of the senate and of the house of representatives,

At an early day after the close of the last session of congress, an offer was formally communicated from his imperial majesty, the emperor of Russia, of his mediation, as the common friend of the United States and Great Britain, for the purpose of facilitating a peace between them. The high character of the emperor Alexander being a satisfactory pledge for the sincerity and impartiality of his offer, it was immediately accepted; and as a further proof of the disposition on the part of the United States, to meet their adversary in honourable experiments for terminating the war, it was determined to avoid intermediate delays, incident to the distance of the parties, by a definitive provision for the contemplated negotiation. Three of our eminent citizens were accordingly commissioned with the requisite powers to conclude a treaty of peace with persons clothed with like powers on the part of Great Britain. They are authorized also to enter into such conventional regulations of the commerce between the two countries, as may be mutually advantageous. The two envoys who were in the United States at the time of their appointment, have proceeded to join their colleague already at St. Petersburg.

The envoys have received another commission, authorizing them to conclude with Russia a treaty of commerce, with a view to strengthen the amicable relations, and improve the beneficial intercourse between the two countries.

The issue of this friendly interposition of the Russian emperor, and this pacific manifestation on the part of the United States, time only can decide. That the sentiments of Great Britain towards that sovereign will have produced an acceptance of his offered mediation, must be presumed. That no adequate motives exist to prefer a continuance of war with the United States, to the terms on which they are willing to close it, is certain. The British cabinet also must be sensible that, with respect to the important question of impressment, on which the war so essentially turns, a search for, or seizure of British persons or property on board neutral vessels on the high

seas, is not a belligerent right derived from the law of nations; and it is obvious, that no visit or search, or use of force, for any purpose, on board the vessels of one independent power on the high seas, can in war or peace be sanctioned by the laws or authority of another power. It is equally obvious, that for the purpose of preserving to each state its seafaring members, by excluding them from the vessels of the other, the mode heretofore proposed by the United States, and now enacted by them as an article of municipal policy, cannot for a moment be compared with the mode practised by Great Britain, without a conviction of its title to preference; inasmuch as the latter leaves the discrimination between the mariners of the two nations, to officers exposed by unavoidable bias, as well as by a defect of evidence, to a wrong decision, under circumstances precluding, for the most part, the enforcement of controlling penalties, and where a wrong decision, besides the irreparable violation of the sacred rights of persons, might frustrate the plans and profits of entire voyages; whereas the mode assumed by the United States guards with studied fairness and efficacy against errors in such cases, and avoids the effect of casual errors on the safety of navigation, and the success of mercantile expeditions.

If the reasonableness of expectations, drawn from these considerations, could guarantee their fulfilment, a just peace would not be distant. But it becomes the wisdom of the national legislature, to keep in mind the true policy, or rather the indispensable obligation, of adapting its measures to the supposition, that the only course to that happy event, is in the vigorous employment of the resources of war. And painful as the reflection is, this duty is particularly enforced, by the spirit and manner in which the war continues to be waged by the enemy; who, uninfluenced by the unvaried examples of humanity set them, are adding to the savage fury of it on one frontier, a system of plunder and conflagration on the other, equally forbidden by respect for national character, and by the established rules of civilized warfare.

As an encouragement to persevering and invigorated exertions to bring the contest to a happy result, I have the satisfaction of being able to appeal to the auspicious progress of our arms, both by land and on the water.

In continuation of the brilliant achievements of our infant navy, a signal triumph has been gained by captain Lawrence and his companions in the Hornet sloop of war, which destroyed a British sloop of war, with a celerity so unexampled, and with a slaughter of the enemy so disproportionate to the loss in the Hornet, as to claim for the conquerors the highest praise,

and the full recompense provided by congress in preceding cases. Our public ships of war in general, as well as the private armed vessels, have continued also their activity and success against the commerce of the enemy, and by their vigilance and address have greatly frustrated the efforts of the hostile squadrons distributed along our coasts to intercept them in returning into port, and resuming their cruizes.

The augmentation of our naval force, as authorized at the last session of Congress, is in progress. On the lakes our superiority is near at hand where it is not already established.

The events of the campaign, so far as they are known to us, furnish matter of congratulation, and show that, under a wise organization and efficient direction, the army is destined to a glory not less brilliant than that which already encircles the navy. The attack and capture of York is, in that quarter, a presage of future and greater victories; while, on the western frontier, the issue of the late siege of Fort Meigs leaves us nothing to regret but a single act of inconsiderate valour.

The provisions last made for filling the ranks and enlarging the staff of the army, have had the best effects. It will be for the consideration of congress, whether other provisions, depending on their authority, may not still further improve the military establishment and the means of defence.

The sudden death of the distinguished citizen who represented the United States in France, without any special arrangements by him for such a contingency, has left us without the expected sequel to his last communications: nor has the French government taken any measures for bringing the depending negotiations to a conclusion, through its representative in the United States. This failure adds to delays, before so unreasonably spun out. A successor to our deceased minister has been appointed, and is ready to proceed on his mission: the course which he will pursue in fulfilling it, is that prescribed by a steady regard to the true interests of the United States, which equally avoids an abandonment of their just demands, and a connexion of their fortunes with the systems of other powers.

The receipts into the treasury from the 1st of October to the 31st day of March last, including the sums received on account of treasury notes, and of the loans authorized by the acts of the last and the preceding sessions of congress, have amounted to fifteen millions four hundred and twelve thousand dollars. The expenditures during the same period, amounted to fifteen millions, nine hundred and twenty thousand dollars, and left in the treasury, on the 1st of April, the sum of one million eight hundred and fifty-seven thousand dollars. The loan of sixteen

millions of dollars, authorized by the act of the 8th of February last, has been contracted for. Of that sum, more than a million of dollars had been paid into the treasury, prior to the 1st of April, and formed a part of the receipts as above stated. The remainder of that loan, amounting to near fifteen millions of dollars, with the sum of five millions of dollars authorized to be issued in treasury notes, and the estimated receipts from the customs and the sales of public lands, amounting to nine millions three hundred thousand dollars, and making in the whole twenty-nine millions three hundred thousand dollars to be received during the last nine months of the present year, will be necessary to meet the expenditures already authorized, and the engagements contracted in relation to the public debt. These engagements amount during that period to ten millions five hundred thousand dollars, which, with near one million for the civil, miscellaneous, and diplomatic expenses, both foreign and domestic, and seventeen millions eight hundred thousand dollars for the military and naval expenditures, including the ships of war building and to be built, will leave a sum in the treasury, at the end of the present year, equal to that on the 1st of April last. A part of this sum may be considered as a resource for defraying any extraordinary expenses already authorized by law, beyond the sums above estimated; and a further resource for any emergency may be found in the sum of one million of dollars, the loan of which to the United States has been authorized by the state of Pennsylvania, but which has not yet been brought into effect.

This view of our finances, whilst it shows that due provision has been made for the expenses of the current year, shows at the same time, by the limited amount of the actual revenue and the dependence on loans, the necessity of providing more adequately for the future supplies of the treasury. This can be best done by a well digested system of internal revenue, in aid of existing sources; which will have the effect, both of abridging the amount of necessary loans, and on that account, as well as by placing the public credit on a more satisfactory basis, of improving the terms on which loans may be obtained. The loan of sixteen millions was not contracted for at a less interest than about seven and a half per cent.; and although other causes may have had an agency, it cannot be doubted, that with the advantage of a more extended and less precarious revenue, a lower rate of interest might have sufficed. A longer postponement of this advantage could not fail to have a still greater influence on future loans.

In recommending to the national legislature this resort to

additional taxes, I feel great satisfaction in the assurance, that our constituents, who have already displayed so much zeal and firmness in the cause of their country, will cheerfully give every other proof of their patriotism which it calls for. Happily no people, with local and transitory exceptions never to be wholly avoided, are more able than the people of the United States, to spare for the public wants a portion of their private means, whether regard be had to the ordinary profits of industry, or the ordinary price of subsistence in our country, compared with those in any other. And in no case could stronger reasons be felt for yielding the requisite contributions. By rendering the public resources certain, and commensurate to the public exigencies, the constituted authorities will be able to prosecute the war the more rapidly to its proper issue; every hostile hope founded on a calculated failure of our resources, will be cut off; and by adding to the evidence of bravery and skill, in combats on the ocean and on the land, an alacrity in supplying the treasure necessary to give them their fullest effect, and thus demonstrating to the world the public energy which our political institutions combine, with the personal liberty distinguishing them, the best security will be provided against future enterprizes on the rights or the peace of the nation.

The contest in which the United States are engaged, appeals for its support to every motive that can animate an uncorrupted and enlightened people; to the love of country; to the pride of liberty; to an emulation of the glorious founders of their independence, by a successful vindication of its violated attributes; to the gratitude and sympathy which demand security from the most degrading wrongs, of a class of citizens who have proved themselves so worthy the protection of their country, by their heroic zeal in its defence; and finally, to the sacred obligation of transmitting, entire, to future generations, that precious patrimony of national rights and independence, which is held in trust by the present, from the goodness of Divine Providence.

Being aware of the inconveniences to which a protracted session at this season would be liable, I limit the present communication to objects of primary importance. In special messages which may ensue, regard will be had to the same consideration.

Washington, May 25, 1813. JAMES MADISON.

Remonstrance of the Legislature of the State of Massachusetts, against the war with Great Britain; and Protest of the minority of said legislature against said remonstrance.

To the honourable the senate, and the honourable the house of representatives of the United States, in congress assembled.

The legislature of Massachusetts, deeply impressed with the sufferings of their constituents, and excited by the apprehension of still greater evils in prospect, feel impelled by a solemn sense of duty to lay before the national government their view of the public interests, and to express, with the plainness of freemen, the sentiments of the people of this ancient and extensive commonwealth.

Although the precise limits of the powers reserved to the several state sovereignties have not been defined by the constitution, yet we fully coincide in the correctness of the opinions advanced by our venerable chief magistrate, "that our constitutions insure to us the freedom of speech, and that at this momentous period it is our right and duty to inquire into the grounds and origin of the present war, to reflect on the state of public affairs, and to express our sentiments concerning them with decency and frankness, and to endeavor, as far as our limited influence extends, to promote, by temperate and constitutional means, an honourable reconciliation."

If, then, such are the rights and duties of the people, surely those who, at this solemn crisis, are selected by them, and who are specially honoured with their confidence, may venture respectfully, but frankly, to express the sentiments and feelings of those whom they have the honour to represent.

The states, as well as the individuals composing them, are parties to the national compact, and it is their peculiar duty, especially in times of peril, to watch over the rights and guard the privileges solemnly guaranteed by that instrument. Certainly then this expression from the legislature of the free and independent commonwealth of Massachusetts, will not be disregarded by the present congress of the United States. For although the numerous petitions and remonstrances of the people of this state in relation to such measures as they deemed dangerous to their rights and ruinous to their interests, have heretofore been received in a manner little calculated to produce that harmony, and to cement that union, which ought to be the permanent aim of the general government, yet we cannot but indulge the hope that new councils and a more conciliatory spirit will distinguish the several branches of the present national legislature; that they will endeavour, by the exercise of justice and impartiality, to allay

the apprehensions and restore the confidence of the eastern and commercial states; to remove their actual sufferings, and to replace them in the happy and prosperous condition from which they have been driven, by a succession of measures hostile to the rights of commerce, and destructive to the peace of the union.

It is not to be expected that a hardy and industrious people, instructed in the nature of their rights, and tenacious of their exercise, whose enterprize was a source of individual wealth and national prosperity, should find themselves obliged to abandon their accustomed employments, and relinquish the means of subsistence, without complaint; or, that a moral and christian people should contribute their aid in the prosecution of an offensive war, without the fullest evidence of its justice and necessity.

The United States, from the form of their government, from the principles of their institutions, from the sacred professions which, in all periods of their history, they have made, from the maxims transmitted to them by patriots and sages, whose loss they can never sufficiently deplore, as well as from a regard to their best and dearest interests, ought to be the last nation to engage in a war of ambition or conquest.

The recent establishment of their institutions, the pacific, moral, and industrious character of their citizens, the certainty that time, and prudent application of their resources, would bring a seasonable remedy for any transient wrongs, would have induced a wise and provident, an impartial and temperate administration, to overlook, if it had been necessary, any temporary evils, which either the ambition, the interest, the cupidity, or the injustice of foreign powers might occasionally, and without any deep and lasting injury, have inflicted.

With these maxims and these views, we cannot discern any thing in the policy of foreign nations towards us, which, in point of expediency, required the sacrifice of so many and so certain blessings as might have been our portion, for such dreadful and inevitable evils as all wars, and especially in a republic, entail upon the people.

But when we review the alleged causes of the war against Great Britain, and, more particularly, the pretences for its continuance, after the principal one was removed, we are constrained to say, that it fills the minds of the good people of this commonwealth with infinite anxiety and alarm. We cannot but recollect, whatever the pretences of the emperor of France may have been, pretences which have uniformly preceded and accompanied the most violent acts of injustice, that he was the

sole author of a system calculated and intended to break down neutral commerce, with a view to destroy the opulence and cripple the power of a rival, whose best interest and whose real policy were to uphold that commerce so essential to her own prosperity.

It is not for us to decide whether the enemy of France did, or did not, adopt the most natural and efficacious means of repelling her injustice. It is sufficient that we are persuaded the United States might, by a firm and dignified, yet pacific resistance to the French decrees, have prevented the recurrence of any retaliatory measures on the part of Great Britain; measures not intended to injure us, but to operate on the author of this unjust and iniquitous system. And however honourable men may differ as to the justice of the British retaliatory orders in council, we do not hesitate to say, that France merited from our government a much higher tone of remonstrance and a more decided opposition.

In reviewing the avowed causes of the present war, we would, if it were possible, pass over a series of transactions imperfectly explained, and calculated to excite our alarm and regret, at the hasty manner in which it was declared. But the history of the pretended repeal of the French decrees, which, if our government was sincere, we are bound to believe was the immediate cause of the war, is so well attested and has been so often discussed, and is besides so important in this inquiry, that mere motives of delicacy cannot induce us to pass over it without notice.

If war could be justified against Great Britain exclusively, it must have been on the ground assumed by our government, that the French decrees were actually repealed on the first of November, 1810. The indiscriminate plunder and destruction of our commerce; the capture of our ships by the cruizers of France, and their condemnation by her courts and by the emperor in person; his repeated and solemn declarations that those derees were still in force and constituted the fundamental laws of his empire, at a period long subsequent to the pretended repeal, seemed to furnish an answer sufficiently conclusive to this question; and we cannot but lament, that evidence so satisfactory to the rest of the nation, should have had so little weight with that congress whose term of service has lately expired.

But this important question is now definitively answered; and the American people have learned with astonishment the depth of their degradation. The French emperor, as if for the perfect and absolute humiliation of our government, and for the annunciation to the world that he held us in utter contempt, reserved till May, 1812, the official declaration of the fact that these decrees were not repealed until April, 1811; and then, not in

consequence of his sense of their injustice, but because we had complied with the condition he had prescribed, in the letter of the duke of Cadore, in causing "our rights to be respected," by a resistance to the British orders; and he has since added, that this decree of repeal was communicated to our minister at Paris, as well as to his own at Washington, to be made known to our cabinet. As the previous pledge of Great Britain gave the fullest assurance that she would repeal her orders as soon as the decrees on which they were founded should cease to exist; and as her subsequent conduct leaves no doubt that she would have been faithful to her promise, we can never too much deplore the neglect to make known this repeal, whether it be attributed to the French government or our own.

If to the former belong the guilt of this duplicity and falsehood, every motive of interest, and every incitement of duty, call loudly upon our administration to proclaim this disgraceful imposition to the American people; not only as it would serve to develope the true character and policy of France, but to acquit our own officers of a suppression too serious to be overlooked or forgiven.

But whatever may be the true state of this mysterious transaction, the promptness with which Great Britain hastened to repeal her orders, before the declaration of war by the United States was known to her, and the restoration of an immense amount of property, then within her power, can leave but little doubt that the war, on our part, was premature, and still less that the perseverance in it, after that repeal was known, was *improper*, *impolitic*, and *unjust*.

It was improper; because it manifested, in this instance, a distrust in the good faith and disposition to peace of a nation, from which we had just received a signal proof of both.

It was impolitic; because it gave countenance to the charge of a subserviency to the views of France, and of an ulterior design of co-operating with her, in the profligate and enormous project of subjugating the rest of Europe.

It was impolitic; as it tended to unite all descriptions of people in England, in favour of the present war, and to convince them, however erroneously, that moderation and fairness, on her part, only laid the foundation of new claims and higher pretensions on ours.

It was unjust; because the evidence, afforded by the prompt repeal of the orders in council, ought to have satisfied us, that Great Britain was sincerely disposed to maintain and preserve pacific relations with the United States; and all wars are unjust, the objects of which can be attained by negotiation.

It was unjust; because the whole history of our diplomatic intercourse with Great Britain shows, that we never induced her to believe, that we considered the impressment of her own seamen, on board our merchant ships, as a reasonable ground of war, and we had never offered her the alternative of war, or a relinquishment of this practice.

It was unjust; because the pretensions and claims, on the one side and on the other, although attended with difficulties, were not irreconcileable. Great Britain did not claim the right to impress our native seamen. She disavowed the practice in all cases when the fact was made known to her. She restored, on legal evidence, she had recently offered to return all who were of that description, of whom a list should be furnished by our government; and she had many years before made such offers of fair and amicable arrangements of this whole subject, as, to two distinguished members of our present cabinet, appeared "both honourable and advantageous."

It was unjust; because we had not taken previously all the reasonable steps, on our part, to remove her complaints of the seduction and employment of her seamen. This is made manifest, by the conduct of the same congress which declared the war, they having admitted the propriety of obviating those complaints, by an act passed subsequent to the commencement of hostilities.

No state in the union can have a greater interest, or feel a stronger desire to protect commerce, and maintain the legitimate rights of seamen, than this commonwealth. Owners of one third of all the navigation, and probably furnishing one half nearly of all the native seamen of the United States, we are better enabled to appreciate the extent of their sufferings, and must also be presumed to sympathise with them more sincerely than the citizens of states destitute of commerce, and whose sons are not engaged in its prosecution; unless it be admitted, that the sufferers, their parents, relatives, and friends, are less interested in their welfare and protection than those who are united to them only by the feeble ties of political connexion.

With all the means of information, furnished by every motive of duty, and every inducement of interest, we are constrained to say, that this evil of impressment has been grossly exaggerated; that we have reason to believe, an honest and fair proposal, as honestly and fairly executed, to exclude the subjects of Great Britain from our service, would have much more effectually relieved our own seamen, and more essentially advanced their interest, than a resort to war; that the true interests of the United States coincide with the policy adopted by all other

countries, and that we should be more independent, our seamen would be better protected, and our country eventually more prosperous, by renouncing altogether the pretension of screening and employing British seamen.

The doctrine of natural allegiance is too well founded, has been too long established, and is too consonant with the permanent interest, the peace and independence of all nations, to be disturbed, for the purpose of substituting in its place certain visionary notions, to which the French revolution gave birth, and which, though long since exploded there, seem still to have an unhappy influence in our country.

Having thus found the avowed causes of the war, and especially the motives for a perseverance in it, so wholly inadequate to justify the adoption of that policy, we have been obliged to resort to other and more concealed motives. We cannot, however, without the most conclusive evidence, believe, although the measures and language of some high public functionaries indicate the fact, that ambition, and not justice; a lust of conquest, and not a defence of endangered rights, are among the real causes of perseverance in our present hostilities.

Must we then add another example to the catalogue of republics, which have been ruined by a spirit of foreign conquest? Have we no regard to the solemn professions we have so often repeated, none to the example, none to the precepts of Washington? Is it possible, either to acquire or to maintain extensive foreign conquests, without powerful standing armies? And did such armies ever long permit the people, who were so imprudent as to raise and maintain them, to enjoy their liberties?

Instances of military oppression have already occurred among us; and a watchful people, jealous of their rights, must have observed some attempts to controul their elections, and to prostrate the civil before the military authority. If the language of some men, high in office; if the establishment of a chain of military posts in the interior of our country; if the extensive preparations which are made in quarters where invasion cannot be feared, and the total abandonment and neglect of that part of our country where alone it can be apprehended, have excited our anxiety and alarm as to the real projects of our rulers; these emotions have not been diminished by the recent invasion, seizure, and occupation of the territory of a peaceable and unoffending neighbour.

If war must have been the portion of these United States, if they were destined by Providence to march the downward road to slavery, through foreign conquest and military usurpation, your remonstrants regret that such a moment and such an oc-

casion should have been chosen for the experiment; that while the oppressed nations of Europe are making a magnanimous and glorious effort against the common enemy of free states, we alone, the descendants of the pilgrims, sworn foes to civil and religious slavery, should voluntarily co-operate with the oppressor to bind other nations in his chains; that, while diverting the forces of one of his enemies from the mighty conflict, we should endanger the defenceless territories of another, in whose ports the flag of our independence was first permitted to wave, now struggling for existence beneath his iron grasp.

Permit the legislature of this commonwealth, whose citizens have been ever zealous in the cause of freedom, and who contributed their utmost efforts for the adoption of that constitution, under which, in former times, we enjoyed so much prosperity, most respectfully, but earnestly, to entreat and conjure the constituted authorities of the nation, by the regard due to our liberties, to our union, to our civil compact, already infringed, to pause before it be too late. Let the sober, considerate, and honourable representatives of our sister states, in which different councils prevail, ask themselves—

Were not the territories of the United States sufficiently extensive before the annexation of Louisiana, the projected reduction of Canada, and seizure of West Florida?

Had we not millions upon millions of acres of uncultivated wilderness, scarcely explored by civilized man?

Could these acquisitions be held, as conquered provinces, without powerful standing armies? And would they not, like other infant colonies, serve as perpetual drains of the blood and treasure of these United States? Or is it seriously intended to adopt the dangerous project of forming them into new states and admitting them into the union, without the express consent of every member of the original confederacy? Would not such a measure have a direct tendency to destroy the obligations of that compact by which alone our union is maintained?

Already have we witnessed the formation and admission of one state beyond the territorial limits of the United States, and this too, in opposition to the wishes and efforts, as well as in violation of the rights and interests of some of the parties to that compact; and the determination to continue that practice, and thereby to extend our republic to regions hitherto unexplored, or peopled by inhabitants whose habits, language, religion, and laws are repugnant to the genius of our government, is openly avowed.

Against a practice so hostile to the rights, the interests, the safety of this state, and so destructive to her political power;

so subversive of the spirit of the constitution, and the very principles upon which it is founded, your remonstrants, in the name and behalf of the commonwealth of Massachusetts, feel it their duty to enter their most solemn and deliberate protest.

If an extensive confederated republic is to be maintained, and we most fervently pray that it may, it can only be by a free communication of the grievances felt and the evils apprehended by any of its members, and by a prompt and liberal remedy. The same spirit of concession which dictated the formation and adoption of the constitution should be kept in permanent and perpetual exercise.

The blessings of government, its vigilance, its protection, its rewards, should be equally and impartially distributed, and its burdens as equally and fairly imposed. No portion of the union ought to be sacrificed to the local interests, passions, or aggrandizement of others. It cannot, however, be denied, that causes have occurred to disturb the balance, which, when adjusted, was intended to form the principal security of our present compact. But the remedy is in the power of congress, and we look to their wisdom for its efficacious and speedy application.

The chief motive which influenced the eastern states to abolish the old confederation, and to surrender a greater share of their own sovereign power, as appears by the recent history of those times, was the expectation that their commerce would be better protected by the national government.

The hardy people of the north stood in no need of the aid of the south, to protect them in their liberties. For this, they could safely rely, as they always had done, on their own valour. But it was an important object with them, that every aid, facility, and encouragement should be given to that commerce upon which their prosperity almost exclusively depended.

To ensure this great object, a very unequal proportion of political power was conceded to the southern states. The representation of slaves was the price paid by the northern states for the stipulated protection and encouragement of their trade, and for an agreement of the southern members of the union, that the public burdens should be apportioned according to representation. Experience, however, has proved, that although the contract on our part has been faithfully fulfilled, both these considerations have utterly failed.

Indications of a spirit hostile to commerce were early visible among some of those who now controul the destinies of our republic; but the father of his country then presided in our councils, and this spirit was vanquished. Under the influence

of the wise, and liberal, and magnanimous system adopted and pursued by his administration, commerce was indeed cherished, extended, and protected; and the stipulations of the constitution were fulfilled in sincerity and good faith.

Since that period, however, the same spirit has arisen, and has exhibited an unrelenting severity in the exercise of its sway; until, at length, by a series of restrictions, utterly destructive of the calculations of the merchant, by prohibitions and double duties, by embargoes and non-intercourse, and lastly by war, the poor remains of that commerce which once covered the ocean with its sails, have been nearly annihilated. Nor has the other part of the consideration been better fulfilled. Taxation has never, except in a single instance, and that to one hundredth part only of the revenue raised under the constitution, been apportioned according to representation, and with what reluctance it was then submitted to by the southern states, and with what tardiness it was even partially collected, public records will determine.

Of the two hundred and fifteen millions of dollars derived by the United States under the operation of the federal government, Massachusetts has paid upwards of forty millions; an amount beyond all proportion to her political weight in the union.

If therefore the revenues derived from this commonwealth, and paid into the national treasury, had been preserved in her own, she would have been fully competent to her own defence, and would not have been obliged to solicit, nor experience the injustice of a refusal of the arms for which she has long since paid, and which were her due from the general government. What good cause can be assigned for this refusal, your remonstrants are wholly unable to determine. No discretion is by law vested in any officer of the government in relation to this subject. Its provisions are simple, plain, and peremptory. Your remonstrants, therefore, cannot but express their astonishment, that the state of Massachusetts, possessing a sea coast more extensive and populous than that of any other state in the union, and a defenceless frontier by land, should not only be entirely abandoned by the government whose duty it is to protect her, but should also be refused the arms for her own defence, to which she is by law entitled.

They cannot, however, permit themselves to doubt that congress will, forthwith, adopt such measures as will render to this commonwealth, that justice which the executive department has refused.

If the war in which we have been rashly plunged, was undertaken to appease the resentment or secure the favour of France, deep and humiliating must be our disappointment. For although the emperor is lavish in his professions of "love for the American people," applauds our ready self-devotion, and declares "that our commerce and our prosperity are within the scope of his policy," yet no reparation has been made or offered for the many outrages, indignities, and insults he has inflicted on our government, nor for the unnumbered millions of which he has plundered our citizens. And when we consider the course of policy pursued by our rulers in their external relations and commercial restrictions, from the prohibition of our trade to St. Domingo, to the declaration of war against Great Britain; that this course often received his open approbation, and was not unfrequently conformable to the system which he himself had adopted; when we consider also the mysterious secrecy which has veiled the correspondence of the two governments from our view; and, above all, when we consider that in many instances the most important measures of our government have been anticipated in Paris long before they were known to the American people, we cannot conceal our anxiety and alarm for the honour and independence of our country. And we most fervently pray, that the sacrifices we have already made, like the early concessions of Spain and Portugal, of Prussia and Sweden, may not be the preludes to new demands and new concessions; and that we may be preserved from all political connexion with the common enemy of civil liberty.

To the constituted authorities of our country we have now stated our opinions, and made known our complaints. Opinions, the result of deliberate reflection; and complaints, "wrung from us by the tortures of that cruel policy" which has brought the good people of this commonwealth to the verge of ruin. A policy which has annihilated that commerce so essential to their prosperity; increased their burdens while it has diminished their means of support; provided for the establishment of an immense standing army, dangerous to their liberties, and irreconcileable with the genius of their constitution; destroyed their just and constitutional weight in the general government, and, by involving them in a disastrous war, has placed in the power of the enemy the controul of the fisheries, a treasure of more value to the country than all the territories for which we are contending, and which furnished the only means of subsistence to thousands of our citizens; the great nursery of our seamen, and the right to which can never be abandoned by New England.

Under such circumstances, silence towards the government would be treachery to the people. In making this solemn representation of our sufferings and our dangers, we have been influenced only by the duty which we owe to our constituents and our country, to our consciences and the memory of our fathers. And to the Searcher of all hearts we appeal for the purity of our motives and the sincerity of our declarations.

Far from wishing to embarrass the administration in any of their negotiations for peace, we cannot but express our regret that they should not have evinced a sincere desire for this great object, by accepting some of the repeated overtures made by the enemy for the suspension of hostilities: and permit us, in conclusion, most earnestly to request, that measures may immediately be adopted to stay the sword of the destroyer, and to prevent the further effusion of human blood; that our invading armies may be forthwith recalled within our own territories; and that every effort of our rulers may be speedily directed to the attainment of a just and honourable peace, that mutual confidence and commercial prosperity may be again restored to our distracted and suffering country; and that by an upright and faithful administration of our government, in the true spirit of the constitution, its blessings may be equally diffused to every portion of the union.

In the house of representatives, June 14th, 1813.
Sent up for concurrence.
TIMOTHY BIGELOW, *Speaker.*
In senate, June 15, 1813.
Read and concurred.
JOHN PHILLIPS, *President.*
A true copy.
Attest, SAMUEL F. M'CLEARY,
Clerk of the Senate.
BENJAMIN POLLARD,
Clerk of the house of Representatives.

To the honourable the senate and house of representatives of the United States of America in congress assembled.

The undersigned committee, chosen by the minority of the senators and representatives of the commonwealth of Massachusetts, beg leave to represent, that they have perceived with extreme regret, that the legislature of this state, in their present session, have presented a remonstrance to congress denouncing the administration of the general government, reprobating the war, as improper, impolitic, and unjust; impeaching the motives of the congress which declared it, excusing and justifying all the

aggressions and outrages of Great Britain, and charging the majority of the representatives of the people, with wantonness, ambition, oppression, and cruelty: while the executive of the United States is steadily pursuing that course of policy, which alone can secure a safe, equitable, honourable, and permanent peace, and are actually negotiating to effect it, it is impossible to conceive what good motive could induce the legislature of this state, to vote a remonstrance so unreasonable in its origin, reprehensible in its language, erroneous in its facts and principles, and pernicious in its effects.

Who, that is American, can but feel indignant to hear it stated by the legislature of a state, that we ought to have resisted the French decrees, agreeably to the demand of the British government; that we have seduced her seamen from their allegiance, and that we have invaded the territory of a peaceable and unoffending neighbour? Where is the man, who values his reputation, who would not indignantly frown at the insinuation, that war was waged from motives of ambition or lust of conquest; that we are leagued with France, to oppose the European nations, and that our government have established a chain of military posts, "to prostrate the civil to the military authority?" And what man, not exclusively British, can, without the deepest mortification, read a remonstrance, which, in time of war and pending negotiation, should take the enemy's ground, support their claims, and justify their aggressions? We assure the congress and people of the United States, that we utterly protest against the statements and principles contained in that humiliating remonstrance. It appears to us too much like the attempt of a disappointed and malignant faction, who, to obtain power, would trample on the rights and liberties of their country. We do not, however, apprehend that any faction in this country have either the power or the nerve to effect a purpose of this sort. We trust and sincerely believe that the people would resist, and effectually suppress, every attempt to sever or weaken our bond of union. We are aware that it is in times of calamity and war that ambitious and designing men will be tempted to stir up the people to opposition and rebellion. But we are assured that a large majority of the people of this state would, at the hazard of their lives and fortunes, resist all opposition to the laws and government of their country. We believe the war to be just and necessary; that the government have invariably maintained strict justice and impartiality towards the belligerents of Europe; that they have submitted to an accumulation of wrongs which no other nation would have endured; they have negotiated until negotiation was vain; that it

is their intention, as it is their duty, to protect the rights of commerce and of sailors, "peaceably if they can, forcibly if they must." That since the pretended repeal of the orders in council, every pacific advance has been made, both by the executive and by congress, which was consistent with the rights and honour of the nation. And that we are willing to endure all the evils and privations of this war, and to expend our property and our blood in its prosecution. We hope the legislature of Massachusetts have better evidence of their consistency, prudence, patriotism, and love of peace, than is contained in their extraordinary remonstrance.

We wish for peace, but we fear that this remonstrance, if it has any effect, will tend to prevent rather than to accomplish it. We hope that the very proper course adopted by the administration to effect a peace, will meet with the success to which it is entitled: but should Great Britain, regardless of the numerous wrongs she has inflicted on us, and calculating on her power, or encouraged by her friends in America, persist in her hostile pretensions, we have no doubt but the people of this state will cordially, actively, and zealously come forward and lend their aid in the prosecution of the war, until our rights are established on a permanent basis.

(*Signed*) *John Holmes*,
Wm. Moody,
Solomon Aiken,
Joshua Prentiss, jun.
John Hart,
Ambrose Hall.

Boston, *June* 16, 1813.

Message from the President of the United States, transmitting information touching the French decree purporting to be a repeal of the Berlin and Milan decrees; in pursuance of the resolutions of the House of the twenty-first of June last.

To the House of Representatives of the United States.

I transmit to the house of representatives a report of the secretary of state, containing the information requested by their resolutions of the 21st of June last.

JAMES MADISON.

Washington, July 12, 1813.

The Secretary of State, to whom was referred several resolutions of the House of Representatives of the 21st ultimo, requesting information on certain points relating to the French decree of the 28th April, 1811, has the honour to make to the President the following

REPORT:

In furnishing the information required by the house of representatives, the secretary of state presumes that it might be deemed sufficient for him to state what is now demanded, what part thereof has been heretofore communicated, and to supply the deficiency. He considers it, however, more conformable to the views of the house, to meet, at this time, without regarding what has been already communicated, every inquiry, and to give a distinct answer to each, with the proper explanation relating to it.

The house of representatives has requested information, when, by whom, and in what manner, the first intelligence was given to this government of the decree of the government of France, bearing date on the 28th April, 1811, and purporting to be a definitive repeal of the decrees of Berlin and Milan; whether Mr. Russell, late charge d'affaires of the United States to the government of France, ever admitted or denied to his government the correctness of the declaration of the duke of Bassano to Mr. Barlow, as stated in Mr. Barlow's letter of the 12th May, 1812, to the secretary of state, that the said decree had been communicated to his, Mr. Barlow's, predecessor there, and to lay before the house any correspondence with Mr. Russell on that subject, which it may not be improper to communicate, and also any correspondence between Mr. Barlow and Mr. Russell, in possession of the department of state; whether the minister of France to the United States ever informed this government of the existence of the said decree, and to lay before the house any correspondence with the said minister relative thereto, not improper to be communicated, with any other information in possession of the executive, which he may not deem it injurious to the public interest to disclose, relative to the said decree, tending to show at what time, by whom, and in what manner, it was first made known to this government, or to any of its representatives or agents; and lastly, to inform the house whether the government of the United States hath ever received from that of France any explanation of the reasons of that decree being concealed from this government and its minister for so long a time after its date, and if such explanation has been asked by this government, and has been omitted to be given by that of France, whether this government has made any remon-

strance or expressed any dissatisfaction to the government of France at such concealment?

These inquiries embrace two distinct objects. The first relates to the conduct of the government of France in regard to this decree; the second, to that of the government of the United States. In satisfying the call of the house on this latter point, it seems to be proper to meet it in a two-fold view; first, as it relates to the conduct of this government in this transaction; secondly, as it relates to its conduct towards both belligerents, in some important circumstances connected with it. The resolutions do not call specially for a report of such extent, but as the measures of the executive, and the acts of congress founded on communications from the executive, which relate to one of the belligerents, have, by necessary consequence, an immediate relation to the other, such a report seems to be obviously comprised within their scope. On this principle the report is prepared, in the expectation that the more full the information given, on every branch of the subject, the more satisfactory will it be to the house.

The secretary of state has the honour to report, in reply to these inquiries, that the first intelligence which this government received of the French decree of the 28th April, 1811, was communicated by Mr. Barlow, in a letter bearing date on the 12th of May, 1812, which was received by this department on the 13th of July following: that the first intimation to Mr. Barlow of the existence of that decree, as appears by his communications, was given by the duke of Bassano in an informal conference on some day between the 1st and 10th of May, 1812, and that the official communication of it to Mr. Barlow was made on the 10th of that month, at his request: that Mr. Barlow transmitted a copy of that decree, and of the duke of Bassano's letter announcing it, to Mr. Russell, in a letter of May 11, in which he also informed Mr. Russell that the duke of Bassano had stated that the decree had been duly communicated to him: that Mr. Russell replied, in a letter to Mr. Barlow of the 29th of May, that his first knowledge of the decree was derived from his letter; and that he has repeatedly stated the same since to this government. The paper marked (A) is a copy of an extract of Mr. Barlow's letter to the department of state, of May 12, 1812; (B) of the duke of Bassano's letter to Mr. Barlow of the 10th of the same month; (C) of an extract of Mr. Barlow's letter to Mr. Russell, of May 11th; (D) of an extract of Mr. Russell's answer of the 29th May; and (E) of Mr. Russell's letter to the department of state of the 30th.

The secretary of state reports also, that no communication of the decree of the 28th April, 1811, was ever made to this government by the minister of France, or other person, than as above stated, and that no explanation of the cause of its not having been communicated to this government and published, at the time of its date, was ever made to this government, or, so far as it is informed, to the representatives or agents of the United States in Europe. The minister of France has been asked to explain the cause of a proceeding apparently so extraordinary and exceptionable, who replied, that his first intelligence of that decree was received by the Wasp, in a letter from the duke of Bassano of May 10th, 1812, in which he expressed his surprise that a prior letter of May, 1811, in which he had transmitted a copy of the decree, for the information of this government, had not been received. Further explanations were expected from Mr. Barlow, but none were given. The light in which this transaction was viewed by this government, was noticed by the president in his message to congress, and communicated also to Mr. Barlow, in the letter of the 14th July, 1812, with a view to the requisite explanation from the French government. On the 9th of May, 1812, the emperor left Paris for the north, and in two days thereafter the duke of Bassano followed him. A negotiation for the adjustment of injuries, and the arrangement of our commerce, with the government of France, long depending, and said to have been brought nearly to a conclusion at the time of Mr. Barlow's death, was suspended by that event. His successor, lately appointed, is authorized to resume the negotiation, and to conclude it. He is instructed to demand redress of the French government for every injury, and an explanation of its motive for withholding from this government a knowledge of the decree, for so long a time after its adoption.

It appears by the documents referred to, that Mr. Barlow lost no time, after having obtained a knowledge of the existence of the French decree of the 28th April, 1811, in demanding a copy of it, and transmitting it to Mr. Russell, who immediately laid it before the British government, urging, on the ground of this new proof of the repeal of the French decrees, that the British orders in council should be repealed. Mr. Russell's note to lord Castlereagh bears date on the 20th May; lord Castlereagh's reply on the 23d, in which he promised to submit the decree to the consideration of the prince regent. (See papers marked F.) It appears, however, that no encouragement was given, at that time, to hope that the orders in council would be repealed, in consequence of that decree; and, that although it was afterwards made the ground of their repeal, the repeal was, neverthe-

less, to be ascribed to other causes. Their repeal did not take effect until the 23d June, more than a month after the French decree had been laid before the British government; a delay indicating in itself, at a period so momentous and critical, not merely neglect but disregard of the French decree. That the repeal of the British orders in council was not produced by the French decree, other proofs might be adduced. I will state one, which, in addition to the evidence contained in the letters from Mr. Russell, herewith communicated (marked G.), is deemed conclusive. In the communication of Mr. Baker to Mr. Graham, on the 9th August, 1812 (marked H.), which was founded on instructions from his government, of as late date as the 17th June, in which he stated, that an official declaration would be sent to this country, proposing a conditional repeal of the orders in council, so far as they affected the United States, no notice whatever was taken of the French decree. One of the conditions then contemplated was, that the orders in council should be revived at the end of eight months, unless the conduct of the French government, and the result of the communications with the government of the United Sates should be such, as, in the opinion of the British government, to render their revival unnecessary: a condition which proves incontestibly that the French decree was not considered by the British government a sufficient ground on which to repeal the orders in council; it proves also that on that day the British government had resolved not to repeal the orders on the basis of that decree; since the proposed repeal was to depend, not on what the French government had already done, but on what it might do, and on arrangements to be entered into with the United States, unconnected with the French repeal.

The French decree of the 28th April, 1811, was transmitted to the United States by the Wasp, a public vessel, which had been long awaiting, at the ports of Great Britain and France, despatches from our ministers relating to these very important concerns with both governments. It was received at the department of state on the 13th July, 1812, nearly a month after the declaration of war against Great Britain. Intelligence of the repeal of the orders in council was not received until about the middle of the following month. It was not impossible therefore that either of these acts, in whatever light they might be viewed, should have been taken into consideration, or have had any influence on deciding on that important event.

Had the British government been disposed to repeal its orders in council, in conformity with the principle on which its professed to have issued them, and on the condition which it had itself

prescribed, there was no reason to delay the repeal until such a decree as that of the 28th April, 1811, should be produced. The declaration of the French government of August 5, 1810, had fully satisfied every claim of the British government according to its own principles on that point. By it the decrees of Berlin and Milan were declared to be repealed, the repeal to to take effect on the 1st November following, on which day it did take effect. The only condition attached to it was, either that Great Britain should follow the example, and repeal her orders in council, or that the United States should carry into effect against her their non-importation act. This condition was in its nature subsequent, not precedent, reserving a right in France to revive her decrees in case neither alternative was performed. By this declaration it was put completely in the power of Great Britain to terminate this controversy in a manner the most honourable to herself. France had yielded to her the ground on a condition, with which she had declared her willingness to comply. Had she complied, the non-importation act would not have been carried into effect, nor could the French decrees have been revived. By refusing to comply, she has made herself responsible for all that has since followed.

By the decree of the 28th April, 1811, the decrees of Berlin and Milan were said to be definitively repealed, and the execution of the non-importation act against Great Britain was declared to be the ground of that repeal. The repeal, announced by the declaration of the 5th August, 1810, was absolute and final, except as to the condition subsequent attached to it. This latter decree acknowledges that that condition had been performed, and disclaims the right to revive it, in consequence of that performance, and, extending back to the 1st of November, confirms in every circumstance the preceding repeal. The latter act, therefore, as to the repeal, is nothing more than a confirmation of the former. It is in this sense that those two acts are to be understood in France. It is in the same sense that they are to be regarded by other powers.

In repealing the orders in council on the pretext of the French decree of the 28th of April, 1811, the British government has conceded that it ought to have repealed them on the declaration of the 5th August, 1810. It is impossible to discriminate between the two acts, or to separate them from each other, so as to justify, on sound and consistent principles, the repeal of the orders in council on the ground of one act, and the refusal to repeal them on that of the other. The second act makes the repeal definitive; but for what reason? Because the non-importation act had been put in force against Great Britain, in compliance

with the condition subsequent attached to the former repeal, and her refusal to repeal her orders in council. That act being still in force, and the decree of the 28th April, 1811, being expressly founded on it, Great Britain repeals her orders in council on the basis of this latter decree. The conclusion is, therefore, irresistible, that by this repeal, under all the circumstances attending it, the British government has acknowledged the justice of the claim of the United States to a repeal on the former occasion. By accepting the latter repeal, it has sanctioned the preceding one; it has sanctioned also the conduct of this government in carrying into effect the non-importation act against Great Britain, founded on the preceding repeal.

Other important consequences result from this repeal of the British government. By fair and obvious construction, the acceptance of the decree of the 28th April, 1811, as the ground of the repeal of the orders in council, ought to be construed to extend back to the 1st November, 1810, the day on which the preceding repeal took effect. The secretary of state has full confidence, that if this question could be submitted to the judgment of an impartial judicial tribunal, such would be its decision. He has equal confidence that such will be the judgment pronounced on it by the enlightened and impartial world. If, however, these two acts could be separated from each other, so as that the latter might be made the basis of the repeal of the orders in council, distinct from the former, it follows, that, bearing date on the 28th April, 1811, the repeal ought to have relation to that date. In legal construction between nations as well as individuals, acts are to be respected from the time they begin to operate, and where they impose a moral or political obligation on another party, that obligation commences with the commencement of the act. But it has been urged, that the French decree was not promulgated or made known to the British government until a year after its date. This objection has no force. By accepting an act bearing date a year before it was promulgated, it is admitted that in the interval nothing was done repugnant to it. It cannot be presumed, that any government would accept from another, as the basis on which it was to found an important measure, an act of anterior and remote date, pledging itself to a certain course of conduct which that government had in the interval departed from and violated. If any government had violated an act, the injunctions of which it was bound to observe, by an anterior one in relation to a third party, and which it professed to have observed before its acceptance by the other, it could not be presumed that it would cease to violate it after the acceptance. The conclusion is irresistible,

that if the other government did accept such act with a knowledge of its antecedent violation, as the foundation of any measure on its own part, such act must have been the ostensible only, and not the real motive to such measure.

The declaration of the prince regent of the 21st April, 1812, is in full confirmation of these remarks. By this act of the British government, it is formally announced, on the authority of a report of the secretary of foreign affairs to the conservative senate of France, that the French decrees were still in force, and that the orders in council should not be repealed. It cannot fail to excite considerable surprise that the British government should immediately afterwards, that is, on the 23d of June, repeal its orders in council, on the ground of the French decree of the 28th April, 1811. By this proceeding the British government has involved itself in manifest inconsistency. It has maintained by one act, that the French decrees were in full force, and by another that they were repealed during the same space of time. It admits also, that by no act of the French government, or of its cruizers, had any violation of the repeal announced by the declaration of the French government of the 5th August, 1810, been committed, or, at least, that such violation had not had sufficient weight to prevent the repeal of the orders in council.

It was objected that the declaration of the French government of the 5th August, 1810, was not such an act as the British government ought to have regarded. The secretary of state is thoroughly satisfied that this objection is altogether unfounded. It was communicated by the emperor through his highest official organ, the secretary of foreign affairs, to the minister plenipotentiary of the United States at Paris. It is impossible to conceive an act more formal, authentic, or obligatory on the French government, than that alluded to. Does one government ever ask or expect from another to secure the performance of any duty, however important, more than its official pledge fairly and fully expressed? Can better security be given for its performance? Had there been any doubt on this subject, the conduct of Great Britain herself, in similar cases, would have completely removed it. The whole history of her diplomatic intercourse with other powers, on the subject of blockade, is in accord with this proceeding of the French government. We know that when her government institutes a blockade, the secretary of foreign affairs announces it to the ministers of other powers at London, and that the same form is observed when they are revoked. Nor was the authenticity of either act, thus announced, ever questioned.

Had a similar declaration been made by the minister of France in the United States to this government, by the order of his own, would it not have been entitled to respect, and been respected? By the usage of nations, such respect could not have been withheld. The arrangement made with Mr. Erskine, is a full proof of the good faith of this government, and of its impartiality in its transactions with both the belligerents. It was made with that minister on the ground of his public character, and the confidence due to it; on which basis the non-intercourse was removed as to England, and left in full force against France. The failure of that arrangement was imputable to the British government alone, who, in rejecting it, took on itself a high responsibility, not simply in regard to the consequences attending it, but in disavowing and annulling the act of its minister, without showing that he had exceeded his authority. In accepting the declaration of the French minister of foreign affairs, in proof of the French repeal, the United States gave no proof of improper credence to the government of France. On a comparison of both transactions, it will appear that if a marked confidence and respect was shown to either government, it was to that of Great Britain. In accepting the declaration of the government of France in the presence of the emperor, the United States stood on more secure ground, than in accepting that of a British minister in this country.

To the demand made by the United States of the repeal of the British orders in council, founded on the basis of the French repeal of August 5th, 1810, the British government replied, by demanding a copy of the orders issued by the French government, for carrying into effect that repeal; a demand without example in the intercourse between nations. By this demand it ceased to be a question whether the French repeal was of sufficient extent, or was founded on justifiable conditions. The pledge of the French government was doubted; a scrutiny was to be instituted as to the manner in which it was to be discharged, and its faith preserved, not by the subsequent conduct of its cruizers towards the vessels of the United States, but by a copy of the orders given to its cruizers. Where would this end? If the French government intended a fraud by its declaration of repeal, announced to the minister of the United States, and afterwards to this government, might it not likewise commit a fraud in any other communication which it might make? If credit was refused by the British government to the act of the French government, thus formally announced, is it probable that it would have been given by it to any document of inferior character, directed to its own people? Although it was the policy, and might be the interest of the British government to

engage the United States in such a controversy with the French government, it was far from comporting with their interests to do it. They considered it their duty to accept the repeal already made by the French government of its decrees, and to look to its conduct, and to that of its cruizers, sanctioned by the government, for the faithful performance or violation of it. The United States having been injured by both powers, were unwilling, in their exertions to obtain justice of either, to become the instrument of the other. They were the less inclined to it in the present instance, from the consideration, that the party making the pressure on them, maintained in full force its unlawful edicts against the American commerce, while it could not deny that a considerable advance, at least, had been made by the other towards a complete accommodation, it being manifest to the world, not only that the faith of the French government stood pledged for the repeal of its decrees, but that the repeal did take effect on the 1st of November, 1810, in regard to the United States; that several American vessels taken under them had been delivered up; and judicial decisions suspended on all, by its order, and that it also continued to give the most positive assurances that the repeal should be faithfully observed.

It has also been urged that the French repeal was conditional, and for that reason could not be accepted. This objection has already been fully answered. It merits attention, however, that the acts of the British government relating to this subject, particularly the declaration of the 21st April, 1812, and the repeal of the 23d June, of the same year, are equally, and in like manner conditional. It is not a little surprising that the British government should have objected to a measure in another government, to which it has itself given a sanction by its own acts. It is proper, however, to remark that this objection has been completely waved and given up by the acceptance of the decree of the 28th April, 1811.

The British government has urged also, that it could not confide in the faithful performance by the French government of any engagement it might enter into relative to the repeal of its decrees. This objection would be equally applicable to any other compact to be entered into with France. While maintained, it would be a bar to any treaty, even to a treaty of peace, between them. But it also has been admitted to be unfounded by the acceptance of the decree of the 28th April, 1811.

The secretary of state presumes that these facts and explanations, supported as they are by authentic documents, prove—first, that the repeal of the British orders in council was not to be ascribed to the French decree bearing date on the 28th April, 1811; and, secondly, that in making that decree the

basis of their repeal, the British government has conceded that it ought to have repealed them on the ground of the declaration of the French government of 5th August, 1810, so as to take effect on the 1st November following. To what cause the repeal of the British orders in council was justly attributable cannot now remain a doubt with any who have marked, with a just discernment, the course of events. It must afford great consolation to the good people of these states to know, that they have not submitted to privations in vain.

The discussion of other wrongs, particularly that relating to impressment, had been closed some time before the period alluded to. It was unworthy the character of the United States to pursue the discussion on that difference, when it was evident that no advantage could be derived from it. The right was reserved to be brought forward and urged again, when it might be done with effect. In the mean time the practice of impressment was persevered in with rigor.

At the time when war was declared against Great Britain, no satisfactory arrangement was offered, or likely to be obtained, respecting impressment, and nothing was more remote from the expectation of this government, than the repeal of the orders in council. Every circumstance which had occurred tending to illustrate the policy and views of the British government, rendered such an event altogether improbable. From the commencement of that system of hostility which Great Britain had adopted against the United States, her pretensions had gradually increased, or at least become more fully unfolded, according to circumstances, until, at the moment when war was declared, they had assumed a character which dispelled all prospect of accommodation. The orders in council were said to have been adopted on a principle of retaliation on France, although at the time when the order of May 1806, was issued, no measure of France had occurred on which it could be retaliatory, and at the date of the next order January, 1807, it was hardly possible that this government should have even heard of the decree of Berlin to which it related. It was stated at the time of their adoption, and for some time afterwards, that they should be revoked as soon as France revoked her decrees, and that the British government would proceed with the government of France *pari passu* in the revocation. After the declaration, however, of the French government of the 5th August, 1810, by which the Berlin and Milan decrees were declared to be repealed, the British government changed its tone, and continued to rise in its demands, to the moment that war was declared. It objected, first, that the French repeal was conditional, and

not absolute; although the only condition attached to it was, that Great Britain should follow the example, or the United States fulfil their pledge, by executing the non-importation act against her. It was then demanded that France should repeal her internal regulations, as a condition of the repeal of the British orders in council. Next, that the French repeal should be extended to all neutral nations, as well as to the United States; and lastly, that the ports of her enemies, and all ports from which the British flag was excluded, should be opened to British manufactures in American vessels: conditions so extravagant as to satisfy all dispassionate minds, that they were demanded not in the expectation that they would or could be complied with, but to terminate the discussion.

On full consideration of all circumstances, it appeared that the period had arrived, when it became the duty of the United States to take that attitude with Great Britain which was due to their violated rights, to the security of their most important interests, and to their character as an independent nation. To have shrunk from the crisis would have been to abandon every thing valuable to a free people. The surrender of our seamen to British impressment, with the destruction of our navigation and commerce, would not have been its only evils. The desolation of property, however great and widely spread, affects an interest which admits of repair. The wound is incurable only which fixes a stigma on the national honour. While the spirit of the people is unsubdued, there will always be found in their virtue a resource equal to the greatest dangers, and most trying emergencies. It is in the nature of free government to inspire in the body of the people generous and noble sentiments, and it is the duty of the constituted authorities to cherish and to appeal to those sentiments, and to rely on the patriotic support of their constituents. Had they proved themselves unequal to the crisis, the most fatal consequences would have resulted from it. The proof of their weakness would have been recorded; but not on them alone would its baneful effects have been visited. It would have shaken the foundation of the government itself, and even of the sacred principles of the revolution, on which all our political institutions depend. Yielding to the pretensions of a foreign power, without making a manly effort in defence of our rights, without appealing to the virtue of the people, or to the strength of our union, it would have been charged and believed, that in these sources lay the hidden defects. Where would the good people of these states have been able to make another stand? Where would have been their rallying point? The government of their choice, having been dishonoured, its weakness and that

of their institutions demonstrated, the triumph of the enemy would have been complete. It would also have been durable.

The constituted authorities of the United States neither dreaded nor anticipated these evils. They had full confidence in the strength of the union, in the firmness and virtue of the people, and were satisfied, when the appeal should be made, that ample proof would be afforded that their confidence had not been misplaced. Foreign pressure, it was not doubted, would soon dissipate foreign partialities and prejudices, if such existed, and unite us more closely together as one people.

In declaring war against Great Britain, the United States have placed themselves in a situation to retort the hostility which they had so long suffered from the British government. The maintenance of their rights was the object of the war. Of the desire of this government to terminate the war on honourable conditions, ample proof has been afforded by the proposition made to the British government, immediately after the declaration of war, through the charge des affaires of the United States at London, and by the promptitude and manner of the acceptance of the mediation of the emperor of Russia.

It was anticipated by some, that a declaration of war against Great Britain would force the United States into a close connection with her adversary, much to their disadvantage. The secretary of state thinks it proper to remark, that nothing is more remote from the fact. The discrimination in favour of France, according to law, in consequence of her acceptance of the proposition made equally to both powers, produced a difference between them in that special case, but in that only. The war with England was declared without any concert or communication with the French government; it has produced no connection between the United States and France, or any understanding as to its prosecution, continuance, or termination. The ostensible relation between the two countries, is the true and only one. The United States have just claims on France for spoliations on their commerce on the high seas, and in the ports of France, and their late minister was, and their present minister is, instructed to demand reparation for these injuries, and to press it with the energy due to the justice of their claims, and to the character of the United States. The result of the negotiation will be communicated to congress in due time. The papers marked (I) contain copies of two letters, addressed from this department to Mr. Barlow, one of the 16th June, 1812, just before the declaration of war, the other of the 14th July following, which show distinctly the relation existing between the United States and

France at that interesting period. No change has since occurred in it.

All which is respectfully submitted.

JAMES MONROE.

The President of the United States.

Department of State, July 12, 1813.

(A.)

Extract of a letter from Mr. Barlow to Mr. Monroe, dated Paris, May 12, 1812.

After the date of my letter, of which I have the honour to enclose you a copy, I found from a pretty sharp conversation with the duke of Bassano, that there was a singular reluctance to answering my note of the 1st of May. Some traces of that reluctance you will perceive in the answer which finally came, of which a copy is here enclosed. This, though dated the 10th, did not come to me till last evening. I consider the communication to be so important in the present crisis of our affairs with England, that I despatch the Wasp immediately to carry it to Mr. Russell, with orders to return with his answer as soon as possible.

I am confident that the president will approve the motive of my solicitude in this affair, and the earnest manner in which I pressed the minister with it, as soon as my knowledge of the declaration of the prince regent enabled me to use the argument that belonged to the subject. When, in the conversation above alluded to, the duke first produced to me the decree of the 28th of April, 1811, I made no comment on the strange manner in which it had been so long concealed from me, and probably from you. I only asked him if that decree had been published: he said no; but declared it had been communicated to my predecessor here, and likewise sent to Mr. Serrurier with orders to communicate it to you. I assured him it was not among the archives of this legation; that I never before had heard of it; and since he had consented to answer my note, I desired him to send me, in that official manner, a copy of that decree, and of any other documents that might prove to the incredulous of my country (not to me) that the decrees of Berlin and Milan were in good faith and unconditionally repealed with regard to the United States. He then promised me he would do it, and he has performed his promise.

I send you a copy of the April decree, as likewise of the letter of the grand judge and that of the minister of finances, though the two latter pieces have been before communicated to our government and published.

(B.)

[Translation.]

The duke of Bassano to Mr. Barlow.

Sir, *Paris, May* 10, 1812.

In conversing with you about the note which you did me the honour to address to me on the 1st of May, I could not conceal from you my surprise at the doubt which you had expressed in that note, respecting the revocation of the decrees of Berlin and Milan. That revocation was proven by many official acts, by all my correspondence with your predecessors, and with you, by the decisions in favour of American vessels. You have done me the honour to ask a copy of the letters which the grand judge and the minister of the finances wrote on the 25th of December, 1810, to secure the first effects of that measure, and you have said, sir, that the decree of the 28th of April, 1811, which proves definitively the revocation of the decrees of Berlin and Milan, in regard to the Americans, was not known to you.

I have the honour to send you, as you have desired, a copy of these three acts; you will consider them, without doubt, sir, as the plainest answer which I could give to this part of your note. As to the two other questions to which that note relates, I will take care to lay them before the emperor. You know already, sir, the sentiments which his majesty has expressed in favour of American commerce, and the good dispositions which have induced him to appoint a plenipotentiary to treat with you on that important interest.

Accept, sir, &c. &c.

(Signed) THE DUKE OF BASSANO.

Joel Barlow, Esq. &c. &c. &c.

Copy of a letter from the Minister of Finance to the Count of Sussy, counsellor of state, director general of the customs, dated December 25, 1810.

On the 5th of last August, the minister of foreign relations wrote to Mr. Armstrong, minister plenipotentiary of the United States of America, that the Berlin and Milan decrees were revoked, and that after the first of November they would cease to have effect, it being well understood, that in consequence of this declaration the English would revoke their orders in council and renounce the new principles of blockade which they wished to establish, or that the United States, in conformity to the act communicated, should cause their rights to be respected by the English.

On the communication of this note, the president of the United States issued, on the second of November, a proclama-

tion, which announces the revocation of the Berlin and Milan decrees after the first of November; and which declares that, in consequence thereof, all the restrictions imposed by the act of the first of May, 1809, should cease with respect to France and her dependencies.

The same day the treasury department addressed to the collectors of the customs a circular, which directs them to admit into the ports and waters of the United States armed French vessels, and enjoins it on them to apply, after the second of February next, the law of the first of May, 1809, prohibiting all commercial relation to English vessels of every description, as well as to productions of the soil, industry, or commerce of England and her dependencies.

His majesty having seen, in these two pieces the enunciation of the measures which the Americans propose taking, on the second of February next, to cause their rights to be respected, has ordered me to inform you, that the Berlin and Milan decrees must not be applied to any American vessels that have entered our ports since the first of November, or may enter in future, and that those which have been sequestered, as being in contravention of these decrees, must be the object of a special report.

On the second of February, I shall acquaint you with the intentions of the emperor with regard to the definitive measures to be taken for distinguishing and favouring the Americannavigation.

I have the honour to salute you.

The Minister of Finance,

(Signed) THE DUKE OF GAETE.

[Translation.]

FRENCH EMPIRE.

Paris, December 26, 1810.

Copy of a letter from his excellency the Grand Judge, Minister of Justice, to the Counsellor of State, President of the Council of Prizes.

Mr. President,

The minister of foreign relations, by order of his majesty the emperor and king, addressed, on the 5th of August last, to the plenipotentiary of the United States of America, a note containing the following words:

"I am authorized to declare to you that the decrees of Berlin and Milan are revoked, and that after the first of November they will cease to have effect, it being well understood that in consequence of this declaration the English will revoke their orders in council, and renounce the new principles of blockade

which they wished to establish, or that the United States, in conformity to the act you have just communicated, will cause their rights to be respected by the English."

In consequence of the communication of this note, the president of the United States issued, on the 2d of November, a proclamation, to announce the revocation of the decrees of Berlin and Milan, and declared, that, in consequence thereof, all the restrictions imposed by the act of the first of May, must cease with respect to France and her dependencies; on the same day the treasury department addressed a circular to all the collectors of the customs of the United States, which enjoins them to admit into the ports and waters of the United States, armed French vessels; prescribes to them to apply, after the 2d of Feb. next, to English vessels of every description, and to productions arising from the soil and industry, or the commerce of England and her dependencies, the law which prohibits all commercial relations, if, at that period, the revocation of the English orders in council and of all the acts violating the neutrality of the United States, should not be announced by the treasury department.

In consequence of this engagement, entered into by the government of the United States, to cause their rights to be respected, his majesty orders, that all the causes that may be pending in the council of prizes of captures of American vessels, made after the first of November, and those that may in future be brought before it, shall not be judged according to the principles of the decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February next, the period at which the United States having fulfilled the engagements to cause their rights to be respected, the said captures shall be declared null by the council, and the American vessels restored, together with their cargoes, to their proprietors.

Receive, Mr. President, the new assurances of my most distinguished consideration.

(Signed) THE DUKE OF MESSA.

[Translation.]

Palace of St. Cloud, April 28, 1811.

NAPOLEON, EMPEROR OF THE FRENCH, &c. &c.

On the report of our minister of foreign relations:

Seeing by a law passed on the 2d of March, 1811, the congress of the United States has ordered the execution of the provisions of the act of non-intercourse, which prohibits the vessels and merchandise of Great-Britain, her colonies and dependencies, from entering into the ports of the United States:

Considering the said law is an act of resistance to the arbitrary pretentions consecrated by the British orders in council, and a formal refusal to adhere to a system invading the independence of neutral powers, and of their flag, we have decreed, and do decree as follows:

The decrees of Berlin and Milan are definitively, and to date from the first of November last, considered as not having existed (*non avenus*) in regard to American vessels.

(Signed) NAPOLEON.

By the emperor.

The minister secretary of state,

(Signed) THE COUNT DARA.

(C.)

Extract of a letter from Mr. Barlow to Mr. Russell.

Paris, May 11, 1812.

I have concluded to despatch the Wasp to England, expressly to carry to you the documents herewith enclosed.

I was not a little surprised to learn by the declaration of the prince regent in council, of the 21st of April, that it was still believed by the British government that the French decrees of Berlin and Milan yet remained in force, as applicable to the United States. On reading that declaration, I therefore addressed to the duke of Bassano a note, bearing date the 1st of May, of which I enclose you a copy.

This drew from him the answer of which I likewise hand you a copy, with the three documents that accompanied it. The most remarkable of these is the decree of the 28th April, 1811. This piece I had never before seen; it appears that it had not been published at the time of its date, and not finding it among the archives of this legation, I suspect, that, by some omission or neglect, it was not communicated to you, as it ought to have been. The duke, however, assures me that it was so communicated. Be this as it may, I am convinced it has not been made known to the British government.

(D.)

Extract of a letter from Mr. Russell to Mr. Barlow.

London, May 29, 1812.

Your letter of the 11th of this month, with its inclosures, was handed me on the 20th, and I immediately communicated copies of the letters from the French ministers of the 21st of December, 1810, and also of the decree of the 28th of April, 1811, to this government. The letters were already known, but the decree, from the cause undoubtedly which you so justly assign, namely,

"an omission or neglect in not having communicated it to me," was entirely new.

The duke of Bassano has unquestionably full faith in what he assures you, but the date of the decree is so very remote, that it is not surprising that our memories should not accord on the subject.

(E.)

Extract of a letter from Mr. Russell to Mr. Monroe.

London, May 30, 1812.

With regard to the French decree of the 28th of April, 1811, Mr. Barlow, in a letter to me, makes the following remarks: "This piece I had never before seen; it seems that *it had not been published* at the time of its date, and not finding it among the archives of this legation, I suspect that, by some omission or neglect, it was not communicated to you, as it ought to have been. The duke assures me that it was so communicated. Be this as it may, I am convinced it has not been made known to the British government." I content myself with saying, that, until communicated to me by Mr. Barlow, I had never heard of such a thing. I persuade myself that there is no necessity of my adding any further explanation or comment on this strange business.

With great respect, I am, sir, &c.

(Signed) JONA. RUSSELL.

(F.)

Mr. Russell to Mr. Monroe.

Sir, *London, 25th May*, 1812.

I have the honour to hand you herein a copy of my note of the 20th of this month, communicating to lord Castlereagh a decree of the French government dated the 28th of April, 1811, and two letters of the French minister's, of the 25th of December, 1810. I also send you copies of that decree and of a note from his lordship, acknowledging the receipt of my communication, and engaging to submit the documents above mentioned to his royal highness the prince regent.

I have the honour to be, with profound respect, sir, your faithful servant,

(Signed) JONA. RUSSELL.

The hon. James Monroe, &c.

Mr. Russell to Lord Castlereagh.

18, *Bentick Street*, *May* 20, 1812.

The undersigned, charge des affaires of the United States of America, has the honour to transmit to lord Castlereagh authentic copies of a decree purporting to be passed by the emperor of the French, on the 28th day of April, 1811; of a letter addressed by the French minister of finances to the director general of the customs on the 25th day of December, 1810; and of another letter of the same date from the French minister of justice to the president of the council of prizes.

As these acts explicitly recognize the revocation of the Berlin and Milan decrees, in relation to the United States, and distinctly make this revocation to take effect from the 1st day of November, 1810; the undersigned cannot but persuade himself that they will, in the official and authentic form in which they are now presented to his Britannic majesty's government, remove all doubt with respect to the revocation in question, and, joined with all the powerful considerations of justice and expediency, so often suggested, lead to a like repeal of the British orders in council, and thereby to a renewal of that perfect amity and unrestricted intercourse between this country and the United States, which the obvious interests of both nations require.

The undersigned avails himself of this occasion to assure his lordship of his highest consideration.

(Signed) JONA. RUSSELL.

The right honourable Lord Viscount Castlereagh, &c.

Note. For the enclosures, see correspondence between Mr. Barlow and the duke of Bassano, communicated herewith.

Lord Castlereagh to Mr. Russell.

Foreign office, *May* 23, 1812.

Lord Castlereagh presents his compliments to Mr. Russell, and has the honour to acknowledge the receipt of his official note of the 21st instant, transmitting copies of two official letters of the French minister's, dated December 25th, 1810, and of a decree of the French government, bearing date the 28th of April, 1811.

Lord Castlereagh will immediately lay these documents before his royal highness the prince regent, and avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

Jonathan Russell, esq. &c. &c.

(G.)

Mr. Russell to Mr. Monroe

Sir, *London, May* 25, 1812.

The assassination of Mr. Perceval has led to a dissolution of his ministry, and I hope may lead to an abandonment of his system as far as we are concerned.

The vote on the motion of Mr. Stewart Wortley, on the 21st, for an address to the prince regent, to form a more efficient administration, has driven the old ministers to offer their resignation. The new arrangements are entrusted to lord Wellesley, but nothing is yet effected.

Mr. Canning appears to be associated with his lordship in this business, which I cannot consider as a circumstance very auspicious to us.

There will, undoubtedly, be much difficulty in forming the new cabinet; none of the old ministers will act under lord Wellesley, he having so recently refused to act under them. Besides there is considerable difference on essential points of policy. The members of opposition have a repugnance to act under any leader not taken from their own ranks, and they certainly will not constitute a part of any administration that does not adopt their system.

The probability therefore is, that either lord Wellesley and Mr. Canning will not succeed in performing the task imposed upon them, or that they will perform it so imperfectly as to expose their work to early destruction.

Whatever may be the ingredients of which the new cabinet may be composed, I am not altogether without hope that the orders in council will be modified if not removed. The effects of our embargo, the evidence before parliament of the distresses occasioned by those orders, and the change of ministers itself, afford both cause and colour for this proceeding.

I say nothing of the French decree, of which I this day send you a copy, as, without the circumstances just mentioned, it would, I am persuaded, have been disregarded.

I shall dismiss the Wasp as soon as the new ministry is formed, or before, unless that event happens in few days. She will return to Cherburg.

With great respect, I am, &c.

(Signed) JONA. RUSSELL.

Extract of a letter from Mr. Russell to Mr. Monroe.

London, June 13, 1812.

The difficulty which has been encountered in forming a new cabinet, has appeared to render it necessary to support the

old one; and upon this ground the house of commons appear to have acted last evening, in giving to ministers, on the second motion of Mr. Wortley, a majority of 125.

Notwithstanding these inauspicious circumstances and all the prejudice of the men now in place, respecting the United States, yet I know not how the orders in council can be maintained without the most serious consequences both to this government and country. It is impossible, in the face of the evidence now before parliament, to deny the vital importance of our intercourse to this nation, and, obstinate as the ministry is, I do not entirely despair that it will be forced from its system, or from power. I have some slender hope that this evidence may, even on the motion of Mr. Broughan on Tuesday next, produce some change, although it hardly seems probable that the ministers will allow the question to come on without the certainty of a triumph.

Mr. Russell to Mr. Monroe.

Sir, *London, June* 18, 1812.

I hand you herein the *Times* of yesterday, containing the debate in the house of commons on the preceding evening, relative to the orders in council. From this debate it appears that these measures are to be abandoned, but as yet no official extinction of them has been announced. The time already elapsed since the declaration of lord Castlereagh, excites a suspicion that either the promised revocation will not take place, or, what is more probable, some other measure, equally unjust, is now under consideration, to replace those which are to be revoked.

I hope, until the doings here are ascertained with certainty and precision, there will be no relaxation on our part.

With great respect, your very obedient servant,

(Signed) JONA. RUSSELL.

Extracts of a letter from Mr. Russell to Mr. Monroe.

London, June 30, 1812.

I have, at length, had the satisfaction to announce to you, in my letters of the 26th instant, the revocation of the orders in council.

You will, without doubt, be somewhat surprised that this revocation is founded on the French decree of the 28th of April, 1811.

The real cause of the revocation is the measures of our government. These measures have produced a degree of distress among the manufacturers of this country that was becoming in-

tolerable; and an apprehension of still greater misery, from the calamities of war, drove them to speak a language which could not be misunderstood or disregarded.

Many members of the house of commons, who had been the advocates of the orders in council, particularly Mr. Wilberforce, and others from the northern counties, were forced now to make a stand against them, or to meet the indignation of their constituents at the approaching election. It is, therefore, the *country*, and not the opposition, which has driven the ministers to yield on this occasion, and the eloquence of Mr. Broughan would have been in vain had it been destitute of this support.

What has now been done, has been most reluctantly done, and yielded to coercion instead of being dictated by a spirit of justice and conciliation. The ministers were resolved to concede nothing until the last extremity. Lord Castlereagh undoubtedly went down to the house of commons on the 16th instant, determined to preserve the orders in council in their full force, and when he perceived that he should be in the minority, he endeavoured to compromise by giving up as little as possible.

It was decided by the cabinet, in consequence of the vague declarations of his lordship on that night, to *suspend* the orders in council, and to make this suspension to depend upon conditions to be previously proposed to the United States. Driven from this ground by the motion of Mr. Brougham for the call of the house, for Thursday the 25th of this month, the ministers at length issued the order of the 23d; and even this order was carried in the cabinet by a small majority only, five members voting against it. With these facts before my eyes, I feel myself constrained to chasten my exultation on what has taken place, with some fear of a return of the old injustice in a new form.

(H.)

Mr. Graham to Mr. Russell.

Sir, *Department of State, August 9th*, 1812.

The secretary left this city about ten days ago, on a short visit to Virginia. Since that period, Mr. Baker has, in consequence of some despatches from his government, addressed to Mr. Foster, made to me a communication respecting the intentions of his government as regards the orders in council. It was of a character, however, so entirely informal and confidential, that Mr. Baker did not feel himself at liberty to make it in the form of a note verbal or pro memoria, or even permit me to take a memorandum of it at the time he made it. At it autho-

rizes an expectation that something more precise and definite, in an official form, may soon be received by this government, it is the less necessary that I should go into an explanation of the views of the president in relation to it, more particularly as the secretary of state is daily expected, and will be able to do it in a more satisfactory manner.

I refer you to the enclosed papers for information as to the maritime and military movements incident to the war, and will add, that the president is anxious to know as soon as possible the result of the proposals you were authorized to make to the British government respecting an armistice. He considers them so fair and reasonable, that he cannot but hope that they will be acceded to, and thus be the means of hastening an honourable and permanent peace.

I have the honour, &c. &c.

(Signed) JOHN GRAHAM.

Jonathan Russell, Esq. &c. &c. &c.

Mr. Graham to Mr. Russell.

Sir, *Department of State, August 10th*, 1812.

Thinking that it may possibly be useful to you, I do myself the honour to enclose a memorandum of the conversation between Mr. Baker and myself, alluded to in my letter of this date. From a conversation with Mr. Baker since this memorandum was made, I find that I was correct in representing to the president, that the intimation from Mr. Foster and the British authorities at Halifax was to be understood as connected with a suspension of hostilities on the frontiers of Canada.

I have the honour, &c. &c.

(Signed) JOHN GRAHAM.

Jonathan Russell, Esq. &c. &c. &c.

Memorandum referred to in the above letter.

Mr. Baker verbally communicated to me for the information of the president, that he had received despatches from his government, addressed to Mr. Foster (dated, I believe, about the 17th June), from which he was authorized to say, that an official declaration would be sent to this country, that the orders in council, so far as they affected the United States, would be repealed on the 1st August, to be revived on the 1st May, 1813, unless the conduct of the French government, and the result of the communications with the American government, should be such as, in the opinion of his majesty, to render their revival unnecessary. Mr. Baker moreover stated, that the orders would be revived, provided the American government did not,

within 14 days after they received the official declaration of their repeal, admit British armed vessels into their ports, and put an end to the restrictive measures which had grown out of the orders in council.

The despatches authorizing the communication to the American government, expressly directed that it should be made verbally, and Mr. Baker did not consider himself at liberty to reduce it to writing, even in the form of a note verbal or pro memoria, or to suffer me to take a memorandum of his communication at the time he made it. I understood from him that the despatches had been opened by Mr. Foster at Halifax, who, in consequence of a conversation he had had with vice-admiral Sawyer and sir John Sherbroke, had authorized Mr. Baker to say, that these gentlemen would agree, as a measure leading to a suspension of hostilities, that all captures made after a day to be fixed, should not be proceeded against immediately, but be detained to await the future decision of the two governments. Mr. Foster had not seen sir George Prevost, but had written to him by express, and did not doubt but that he would agree to an arrangement for the temporary suspension of hostilities. Mr. Baker also stated, that he had received an authority from Mr. Foster to act as charge des affaires, provided the American government would receive him in that character, for the purpose of enabling him officially to communicate the declaration which was to be expected from the British government, his functions to be understood, of course, as ceasing on the renewal of hostilities. I replied, that although to so general and informal a communication no answer might be necessary, and certainly no particular answer expected, yet I was authorized to say, that the communication is received with sincere satisfaction, as it is hoped, that the spirit in which it was authorized by his government may lead to such further communications as will open the way, not only for an early and satisfactory termination of existing hostilities, but to that entire adjustment of all the differences which produced them, and to that permanent peace and solid friendship which ought to be mutually desired by both countries, and which is sincerely desired by this.

With this desire, an authority was given to Mr. Russell on the subject of an armistice, as introductory to a final pacification, as has been made known to Mr. Foster; and the same desire will be felt on the receipt of the further and more particular communications which are shortly to be expected.

With respect to the joint intimation from Mr. Foster and the British authorities at Halifax, on the subject of suspending judicial proceedings in the case of maritime captures, to be ac-

companied by a suspension of military operations, the authority given to Mr. Russell, just alluded to, and of which Mr. Foster was the bearer, is full proof of the solicitude of the government of the United States to bring about a general suspension of hostilities on admissible terms, with as little delay as possible. It was not to be doubted, therefore, that any other practicable expedient for attaining a similar result would readily be concurred in. Upon the most favourable consideration, however, which could be given to the expedient suggested through him, it did not appear to be reducible to any practical shape to which the executive would be authorized to give it the necessary sanction. Nor indeed is it probable, that if it was less liable to insuperable difficulties, that it could have any material effect previous to the result of the pacific advance made by this government, and which must, if favourably received, become operative as soon as any other arrangement that could now be made. It was stated to Mr. Baker, that the president did not, under existing circumstances, consider Mr. Foster as vested with the power of appointing a charge des affaires, but that no difficulty, in point of form, would be made, as any authentic communication through him or any other channel, would be received with attention and respect.

(I.)

Mr. Monroe to Mr. Barlow.

Sir, *Department of State, June* 16, 1812.

An act declaring war against Great Britain will probably pass both houses of congress on this day or to-morrow. It has already passed the house of representatives, and, from what is known of the disposition of the senate, its assent is expected without delay.

This result has grown out of the continued aggressions of that power on our commerce. Propositions were made in both houses of congress to comprise France in the same declaration, and in the senate the vote was 15 for, to 17 against it. In the other house the majority against it was proportionably greater. Its defeat in both houses has been doubtless, in a great measure, owing to a passage in your last letter, which intimated the intention of the French government to make some proposition in favour of indemnities, to be comprised in the treaty you were negotiating, whereby an expectation was excited that that interest would be provided for, and satisfaction given on the other grounds of complaint against France. The sentiment in both houses, as it is with the nation generally, produced by so many acts of injustice, for which reparation has not been made, is

strong against France. The arrival of the Wasp, which you promised to despatch in two or three weeks from the date of your last letter, with the result of your labours, and which may be now daily expected, was another motive for delaying ulterior measures with respect to her. In advising the war against England, as was distinctly implied by the late message, which brought that subject under consideration, the president stated to congress his strong dissatisfaction with the conduct of the French government on every former ground of complaint, and to which others of more recent date have been added, with the single exception of the repeal of the decrees. He promised also to bring our affairs with that power fully before congress, as soon as he should receive the communications which you had promised to forward by the Wasp. I communicate these facts, which are of a character too marked to require any comment, that you may be enabled to turn them to the best account in promoting an amicable accommodation with the French government of every wrong received from it, which is sincerely desired.

You were informed by my letter of the 6th of May, of such outrages committed by a squadron which was reported to have sailed from Nantz in January last, as were at that time known here. It appears that several vessels sailing from American ports to Lisbon and Cadiz, laden with the productions of the United States, were seized and burnt at sea. The crews of these vessels were taken on board one of the French vessels, and afterwards transferred to another of our vessels engaged in the same trade, which was also seized, in which they made their way home. These men forwarded here the evidence of these acts, copies of which have already been transmitted to you. I forward to you by this conveyance, the evidence of other aggressions, which will claim, in like manner, your particular attention. Most of these documents have been laid before congress, and referred by it to this department.

You will analize all these cases of recent spoliations, and place them in the class of aggressions to which they severally belong, on principle. In demanding of Great Britain the repeal of her orders in council, on the ground of the repeal of the French decrees, this government has, from a regard to justice, given to France all the credit to which she had any claim, believing that the notification alone of the French minister of foreign affairs, to the minister plenipotentiary of the United States at Paris, of their repeal, was sufficient to justify the demand of the repeal of the orders in council of Great Britain, on her own principles. But it was never the intention of this government to concede to France any thing on that subject, to which she was

not fairly entitled. On the contrary, it has been its intention, as is sufficiently evident by your first instructions, to exact from her a most strict and rigorous compliance with her pledge, in regard to the repeal. If any act in violation of that pledge has been committed, you will not fail to point it out, in the most distinct manner, to the French government, and to communicate to this department, without delay, any answer which you may receive from it. I have to add, admitting that the repeal of the decrees is observed with perfect good faith, that if the French government has given other orders, or permits acts of another character, which violate our rights, the wrong will not be less sensibly felt or less resented by this government.

Your despatches by the Hornet were received on the 22d May. They are the last which have come to hand.

I have the honour, &c. &c.

(Signed) JAMES MONROE.

Joel Barlow, esq. &c. &c.

Mr. Monroe to Mr. Barlow.

Sir, *Department of State, July* 14, 1812.

Your letters by the Wasp were received on the 13th instant.

I make this acknowledgment in the hope that it may reach Mr. Morton at Baltimore, and be conveyed with the letters and documents with which he is already charged for you.

The president has seen with great surprise and concern that the government of France had made no accommodation to the United States on any of the important and just grounds of complaint to which you had called its attention, according to your instructions, given at the time of your departure, and repeated in several communications since. It appears that the same oppressive restraints on our commerce were still in force; that the system of licence was persevered in; that indemnity had not been made for spoliations, nor any pledge given to inspire confidence that any would be made. More recent wrongs, on the contrary, and of a very outrageous character, have been added to those with which you were acquainted when you left the United States. By documents forwarded to you in my letter of 21st March, you were informed of the waste of our commerce, made by a squadron from Nantz, in January last, which burnt many of our vessels trading to the peninsula. For these you were also instructed to demand redress.

It is hoped that the government of France, regarding with a prudent foresight the probable course of events, will have some sensibility to its interest, if it has none to the claims of justice, on the part of this country.

On the French decree of the 28th of April, 1811, I shall forbear to make any observations which have already occurred, until all the circumstances connected with it are better understood. The president approves your effort to obtain a copy of that decree, as he does the communication of it afterwards to Mr. Russell. I have the honour to be, &c. &c.

JAMES MONROE.

Joel Barlow, esq. &c. &c.

Message from the President of the United States, transmitting sundry documents relating to a declaration and order in council of the British government, of the twenty-first of April, 1812.

To the House of Representatives of the United States.

I transmit to the house of representatives a report of the secretary of state, containing the information requested by their resolution of the 21st of June last.

Washington, 12th July, 1813. JAMES MADISON.

The secretary of state, to whom was referred the resolution of the house of representatives, of the 21st of June, requesting copies of a declaration and order in council of the British government of the 21st of April, 1812, has the honour to lay before the president copies of these papers, together with a copy of the correspondence relating to them.

JAMES MONROE.

Department of State, July 12th, 1813.

Declaration and Order in Council of the British government, dated 21st April, 1812, *and the correspondence relative thereto.*

Mr. Russell to Mr. Monroe.

Sir, *London, 22d April,* 1812.

I received late last evening a note from lord Castlereagh, of which the enclosed is a copy, together with the declaration to which it refers.

I hasten to communicate to you these important documents, as they appear to manifest definitively the determination of this government to persevere in its actual system, and to support, with every of sort of pretext, the pretext of retaliation on which it was originally founded. I have the honour to be, &c.

(Signed) JONATHAN RUSSELL.

Lord Castlereagh to Mr. Russell.

The undersigned, his majesty's principal secretary of state for foreign affairs, is commanded by his royal highness the prince regent, to transmit to Mr. Russell, charge d'affaires of the government of the United States of America, the enclosed copy of a declaration, accompanying an order in council, which has been this day passed by his royal highness the prince regent in council.

The undersigned is commanded by the prince regent to request that Mr. Russell, in making this communication to his government, will represent this measure as one conceived in the true spirit of conciliation, and with a due regard on the part of his royal highness to the honour and interests of the United States; and the undersigned ventures to express his confident hope, that this decisive proof of the amicable sentiments which animate the councils of his royal highness towards America, may accelerate the return of amity and mutual confidence between the two states.

The undersigned avails himself of this opportunity to repeat to Mr. Russell the assurances of his high consideration.

(Signed) CASTLEREAGH.

Foreign Office, 21*st April*, 1812.

DECLARATION.

The government of France having, by an official report communicated by its minister of foreign affairs to the conservative senate, on the 10th day of March last, removed all doubts as to the perseverance of that government in the assertion of principles, and in the maintenance of a system, not more hostile to the maritime rights and commercial interests of the British empire, than inconsistent with the rights and independence of neutral nations; and having thereby plainly developed the inordinate pretensions, which that system, as promulgated in the decrees of Berlin and Milan, was from the first designed to enforce, his royal highness the prince regent, acting in the name and on the behalf of his majesty, deems it proper, upon this formal and authentic republication of the principles of those decrees, thus publicly to declare his royal highness's determination still firmly to resist the introduction and establishment of this arbitrary code, which the government of France openly avows its purpose to impose by force upon the world, as the law of nations.

From the time that the progressive injustice and violence of the French government made it impossible for his majesty any longer to restrain the exercise of the rights of war within their

ordinary limits, without submitting to consequences not less ruinous to the commerce of his dominions, than derogatory to the rights of his crown, his majesty has endeavoured, by a restricted and moderate use of those rights of retaliation, which the Berlin and Milan decrees necessarily called into action, to reconcile neutral states to those measures, which the conduct of the enemy had rendered unavoidable, and which his majesty has at all times professed his readiness to revoke, so soon as the decrees of the enemy, which gave occasion to them, should be formally and unconditionally repealed, and the commerce of neutral nations be restored to its accustomed course.

At a subsequent period of the war, his majesty, availing himself of the then situation of Europe, without abandoning the principle and object of the orders in council of November, 1807, was induced so to limit their operation, as materially to alleviate the restrictions thereby imposed upon neutral commerce. The order in council of April, 1809, was substituted in the room of those of November, 1807, and the retaliatory system of Great Britain acted no longer on every country in which the aggressive measures of the enemy were in force, but was confined in its operation to France, and to the countries upon which the French yoke was most strictly imposed, and which had become virtually a part of the dominions of France.

The United States of America remained, nevertheless, dissatisfied; and their dissatisfaction has been greatly increased by an artifice, too successfully employed on the part of the enemy, who has pretended that the decrees of Berlin and Milan were repealed, although the decree effecting such repeal has never been promulgated; although the notification of such pretended repeal distinctly described it to be dependent on conditions, in which the enemy knew Great Britain could never acquiesce; and although abundant evidence has since appeared of their subsequent execution.

But the enemy has at length laid aside all dissimulation; he now publicly and solemnly declares, not only that those decrees still continue in force, but that they shall be rigidly executed until Great Britain shall comply with additional conditions, equally extravagant; and he further announces the penalties of those decrees to be in full force against all nations which shall suffer their flag to be, as it is termed in this new code, "denationalized."

In addition to the disavowal of the blockade of May, 1806, and of the principles on which that blockade was established, and in addition to the repeal of the British orders in council, he demands an admission of the principle, that the goods of an ene-

my, carried under a neutral flag, shall be treated as neutral; that neutral property, under the flag of an enemy, shall be treated as hostile; that arms and warlike stores alone (to the exclusion of ship timber, and other articles of naval equipment) shall be regarded as contraband of war; and that no ports shall be considerered as lawfully blockaded, except such as are invested and besieged, in the presumption of their being taken [en prevention d'être pris], and into which a merchant ship cannot enter without danger.

By these and other demands the enemy in fact requires, that Great Britain, and all civilized nations, shall renounce, at his arbitrary pleasure, the ordinary and indisputable rights of maritime war; that Great Britain, in particular, shall forego the advantages of her naval superiority, and allow the commercial property as well as the produce and manufactures of France and her confederates, to pass the ocean in security, whilst the subjects of Great Britain are to be in effect proscribed from all commercial intercourse with other nations; and the produce and manufactures of these realms are to be excluded from every country in the world, to which the arms or the influence of the enemy can extend.

Such are the demands to which the British government is summoned to submit; to the abandonment of its most ancient, essential, and undoubted maritime rights. Such is the code by which France hopes, under the cover of a neutral flag, to render her commerce unassailable by sea; whilst she proceeds to invade or to incorporate with her own dominions all states that hesitate to sacrifice their national interests at her command, and, in abdication of their just rights, to adopt a code by which they are required to exclude, under the mask of municipal regulations, whatever is British from their dominions.

The pretext for these extravagant demands is, that some of these principles were adopted by voluntary compact in the treaty of Utrecht; as if a treaty once existing between two particular countries, founded on special and reciprocal considerations, binding only on the contracting parties, and which in the last treaty of peace between the same powers, had not been revived, were to be regarded as declaratory of the public law of nations.

It is needless for his royal highness to demonstrate the injustice of such pretensions. He might otherwise appeal to the practice of France herself in this and in former wars, and to her own established codes of maritime law. It is sufficient that these new demands of the enemy form a wide departure from those conditions on which the alleged repeal of the French de-

crees was accepted by America; and upon which alone, erroneously assuming that repeal to be complete, America has claimed a revocation of the British orders in council.

His royal highness, upon a review of all these circumstances, feels persuaded that so soon as this formal declaration by the government of France, of its unabated adherence to the principles and provisions of the Berlin and Milan decrees, shall be made known in America, the government of the United States, actuated not less by a sense of justice to Great Britain, than by what is due to its own dignity, will be disposed to recall those measures of hostile exclusion, which, under a misconception of the real views and conduct of the French government, America has exclusively applied to the commerce and ships of war of Great Britain.

To accelerate a result so advantageous to the true interests of both countries, and so conducive to the re-establishment of perfect friendship between them; and to give a decisive proof of his royal highness's disposition to perform the engagements of his majesty's government, by revoking the orders in council whenever the French decrees shall be actually and unconditionally repealed, his royal highness the prince regent has been this day pleased, in the name and on the behalf of his majesty, and by and with the advice of his majesty's privy council, to order and declare:

"That if at any time hereafter, the Berlin and Milan decrees shall, by some authentic act of the French government publicly promulgated, be expressly and unconditionally repealed, then and from thenceforth the order in council of the 7th day of January, 1807, and the order in council of the 26th day of April, 1809, shall, without any further order, be, and the same hereby are declared from thenceforth to be wholly and absolutely revoked; and further, that the full benefit of this order shall be extended to any ship or vessel captured subsequent to such authentic act of repeal of the French decrees, although, antecedent to such repeal, such ship or vessel shall have commenced and shall be in the prosecution of a voyage, which, under the said orders in council or one of them, would have subjected her to capture and condemnation; and the claimant of any ship or cargo which shall be captured at any time subsequent to such authentic act of repeal by the French government, shall, without any further order or declaration on the part of his majesty's government on this subject, be at liberty to give in evidence in the high court of admiralty or any court of vice-admiralty, before which such ship or vessel or its cargo shall be brought for adjudication, that such repeal by the French government had been by such authen-

tic act promulgated prior to such capture; and upon proof thereof the voyage shall be deemed and taken to have been as lawful as if the said orders in council had never been made; saving, nevertheless, to the captors such protection and indemnity as they may be equitably entitled to, in the judgment of the said court, by reason of their ignorance or uncertainty as to the repeal of the French decrees, or of the recognition of such repeal by his majesty's government, at the time of such capture.

"His royal highness, however, deems it proper to declare, that, should the repeal of the French decrees, thus anticipated and provided for, afterwards prove to have been illusory on the part of the enemy; and should the restrictions thereof be still practically enforced or revived by the enemy, Great Britain will be obliged, however reluctantly, after reasonable notice to neutral powers, to have recourse to such measures of retaliation as may then appear to be just and necessary."

Westminster, April 21, 1812.

At the court at Carleton House, the twenty-first of April, one thousand eight hundred and twelve, present, his royal highness the Prince Regent in council.

Whereas, the government of France has, by an official report, communicated by its minister for foreign affairs to the conservative senate, on the tenth of March last, removed all doubts as to the perseverance of that government in the assertion of principles, and in the maintenance of a system, not more hostile to the maritime rights and commercial interests of the British empire, than inconsistent with the rights and independence of neutral nations, and has thereby plainly developed the inordinate pretensions which that system, as promulgated in the decrees of Berlin and Milan, was from the first designed to enforce.

And whereas, his majesty has invariably professed his readiness to revoke the orders in council, adopted thereupon, as soon as the said decrees of the enemy should be formally and unconditionally repealed, and the commerce of neutral nations restored to its accustomed course:

His royal highness the prince regent (anxious to give the most decisive proof of his royal highness's disposition to perform the engagements of his majesty's government) is pleased, in the name and on the behalf of his majesty, and by and with the advice of his majesty's privy council, to order and declare, and it is hereby ordered and declared, that if, at any time hereafter, the Berlin and Milan decrees shall, by some authentic act of the French government, publicly promulgated, be absolutely and unconditionally repealed, then, and from thenceforth, the

order in council of the seventh day of January, one thousand eight hundred and seven, and the order in council of the twenty-sixth day of April, one thousand eight hundred and nine, shall, without any further order, be, and the same are hereby declared from thenceforth to be wholly and absolutely revoked: And further, that the full benefit of this order shall be extended to any ship or cargo captured subsequent to such authentic act of repeal of the French decrees, although antecedent to such repeal such ship or vessel shall have commenced and shall be in the prosecution of a voyage which, under the said orders in council, or one of them, would have subjected her to capture and condemnation; and the claimant of any ship or cargo which shall be captured or brought to adjudication, on account of any alleged breach of either of the said orders in council, at any time subsequent to such authentic act of repeal by the French government, shall, without any further order or declaration on the part of his majesty's government on this subject, be at liberty to give in evidence, in the high court of admiralty, or any court of vice-admiralty before which such ship or cargo shall be brought for adjudication, that such repeal by the French government had been by such authentic act promulgated prior to such capture; and upon proof thereof, the voyage shall be deemed and taken to have been as lawful as if the said orders in council had never been made: saving, nevertheless, to the captors such protection and indemnity as they may be equitably entitled to in the judgment of the said court, by reason of their ignorance or uncertainty as to the repeal of the French decrees, or of the recognition of such repeal by his majesty's government at the time of such capture.

His royal highness, however, deems it proper to declare, that should the repeal of the French decrees, thus anticipated and provided for, prove afterwards to have been illusory on the part of the enemy; and should the restrictions thereof be still practically enforced, or revived by the enemy, Great Britain will be compelled, however reluctantly, after reasonable notice, to have recourse to such measures of retaliation as may then appear to be just and necessary.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judge of the high court of admiralty, and the judges of the courts of vice-admiralty, are to take the necessary measures herein as to them shall respectively appertain.

(Signed) CHETWYND.

Mr. Russell to Mr. Monroe.

(Duplicate.)

Sir, *London*, 26*th April*, 1812.

I beg leave to hand you herewith a declaration and an order in council of this government of the twenty-first of this month, and a copy of a note from lord Castlereagh accompanying the communication of them to me. I have already transmitted to you other copies of these documents, and have now to add a copy of the note which I have addressed, in reply to that of his lordship.

I have the honour to be, with the highest consideration, sir, your assured and faithful servant,

(Signed) JONA. RUSSELL.

Mr. Russell to Lord Castlereagh.

(Copy.)

My Lord, 18, *Bentinck Street*, *April* 25*th*, 1812.

I have the honour to acknowledge the receipt of the note which your lordship addressed to me on the 21st of this month, enclosing, by the command of his royal highness the prince regent, a copy of a declaration, accompanying an order in council which had that day been passed.

It would have afforded me the highest satisfaction in communicating that declaration and order to my government, to have been able to represent them as conceived in the true spirit of conciliation, and with a due regard to the honour and interests of the United States. I regret, however, that so far from being able to perceive in them any evidence of the amicable sentiments which are professed to animate the councils of his royal highness, I am compelled to consider them as an unequivocal proof of the determination of his Britannic majesty's government, to adhere to a system, which, both as to principle and fact, originated and has been continued in error; and against which, the government of the United States, so long as it respects itself, and the essential rights of the nation over which it is placed, cannot cease to contend.

The United States have never considered it their duty to inquire, nor do they pretend to decide, whether England or France was guilty, in relation to the other, of the first violation of the public law of nations; but they do consider it their most imperious duty to protect themselves from the unjust operation of the unprecedented measures of retaliation, professed by both these powers to be founded on such violation. In this operation, by whichever party directed, the United States have never for a moment acquiesced; nor by the slightest indication of

such acquiescence, afforded a pretext for extending to them the evils by which England and France affect to retaliate on each other. They have in no instance departed from the observance of that strict impartiality which their peaceful position required, and which ought to have secured to them the unmolested enjoyment of their neutrality. To their astonishment, however, they perceived that both these belligerent powers, under the pretence of annoying each other, adopted, and put in practice, new principles of retaliation, involving the destruction of those commercial and maritime rights which the United States regard as essential and inseparable attributes of their independence. Although alive to all the injury and injustice of this system, the American government resorted to no measures to oppose it which were not of the most pacific and impartial character, in relation to both the aggressors. Its remonstrances, its restrictions of commercial intercourse, and its overtures for accommodation, were equally addressed to England and to France; and, if there is now an inequality in the relations of the United States with these countries, it can only be ascribed to England herself, who rejected the terms proffered to both, while France accepted them; and who continues to execute her retaliatory edicts on the high seas, while those of the latter have there ceased to operate.

If Great Britain could not be persuaded by considerations of universal equity, to refrain from adopting any line of conduct, however unjust, for which she might discover a precedent in the conduct of her enemy; or to abandon an attempt of remotely and uncertainly annoying that enemy through the immediate and sure destruction of the vital interests of a neutral and unoffending state; yet it was confidently expected that she would be willing to follow that enemy also in his return towards justice; and, from a respect to her own declarations, to proceed pari passu with him, in the revocation of the offending edicts. This just expectation has, however, been disappointed, and an exemption of the flag of the United States from the operation of the Berlin and Milan decrees has produced no corresponding modification of the British orders in council. On the contrary, the fact of such exemption on the part of France appears by the declaration and order in council of the British government of the 21st of this month to be denied; and the engagement of the latter to proceed step by step with its enemy in the work of repeal and relaxation, to be disowned or disregarded.

That France has repealed her decrees, so far as they concerned the United States, has been established by declarations and facts satisfactory to them, and which, it was presumed, would

have been equally satisfactory to the British government. A formal and authentic declaration of the French government, communicated to the minister plenipotentiary of the United States at Paris, on the 5th of August, 1810, announced that the decrees of Berlin and Milan were revoked, and should cease to operate on the first of the succeeding November, provided that a condition presented to England, or another condition presented to the United States, should be performed. The condition presented to the United States was performed; and this performance rendered absolute the repeal of the decrees. So far, therefore, from this repeal depending on conditions in which Great Britain could not acquiesce, it became absolute, independently of any act of Great Britain, the moment the act proposed for the performance of the United States was accomplished. Such was the construction given to this measure by the United States, from the first; and that it was a correct one, has been sufficiently evinced by the subsequent practice of France.

Several instances of the acquittal of American vessels and cargoes, to which the decrees would have attached, if still in force against the United States, have, from time to time, been presented to his Britannic majesty's government. That these cases have been few is to be ascribed to the few captures, in consequence of this repeal, made by French cruisers; and should no other such case occur it will be owing to the efficacy of this repeal, and to the exact observance of it, even by the most wanton and irregular of those cruisers.

From the 1st of November, 1810, to the 29th of January of the present year, as appears by a note which I had the honour to address to the predecessor of your lordship on the 8th of February last, the Berlin and Milan decrees had not been applied to American property, nor have I heard that such application has since been made.

But, against the authentic act of the French government of the 5th of August, 1810, and the subsequent conduct of that government, mutually explaining each other, and confirming the construction adopted by the United States, is offered a report said to be communicated by the French minister of foreign affairs to the conservative senate. Without pretending to doubt the genuineness of that report, although it has reached this country only in a newspaper, yet it is to be lamented that as much form and evidence of authenticity have not been required in an act considered as furnishing cause for the continuance of the orders in council, as in an act which, by the very terms of those orders, challenged their revocation. The act of the 5th of August, 1810, emanating from the sovereign of France, officially

communicated to the British government, and satisfactorily expounded and explained by the practical comments of more than eighteen months, is denied to afford convincing evidence of the repeal of the French decrees; while full proof of their continuance is inferred from a report, which by its very nature must contain the mere opinions and speculations of a subject, which is destitute of all authority until acted upon by the body to which it was presented, which has found its way hither in no more authentic shape than the columns of the *Moniteur*, and for the proper understanding of which not a moment has been allowed. But even were the value thus assigned to the report just, it is still difficult to discover what inference can be fairly deduced from it incompatible with the previous declarations and conduct of the French government exempting the United States from the operation of its decrees. The very exception in that report, with regard to nations which do not suffer their flag to be *denationalized*, was undoubtedly made with a reference to the United States, and with a view to reconcile the general tenor of that report, with the good faith with which it became France to observe the conventional repeal of those decrees in their favour. However novel may be the terms employed, or whatever may be their precise meaning, they ought to be so interpreted as to accord with the engagements of the French government, and with justice and good faith.

Your lordship will, I doubt not, the more readily acknowledge the propriety of considering the report in this light, by a reference to similar reports made to the same conservative senate, on the 13th of December, 1810, by the duke of Cadore, the predecessor of the present French minister of exterior relations, and by the count de Simonville. In these reports, they say *to* the emperor (which sufficiently proves that such reports are not to be considered as dictated by him), "Sire, as long as England shall persist in her orders in council, so long your majesty will persist in his decrees;" and "the decrees of Berlin and Milan are the answer to the orders in council; the British cabinet has, thus to speak, dictated them to France; Europe receives them for her code, and this code shall become the palladium of the liberty of the seas." Surely this language is as strong as that of the report of the 10th of March, and still more absolute, for there is no qualification in it in favour of any nation; yet this language has, both by an explanation from the duke of Cadore to me at the time, and by the uniform conduct of the French govenment since, been reconciled with the repeal of these very decrees, so far as they concerned the United States.

Had the French decrees originally afforded an adequate foundation for the British orders, and been continued after these reports in their full force and extent, surely, during a period in which above a hundred American vessels and their cargoes have fallen a prey to these orders, some one solitary instance of capture and confiscation must have happened under these decrees. That no such instance has happened, incontrovertibly proves, either that those decrees are of themselves harmless, or that they had been repealed; and in either case they afford no rightful plea or pretext to Great Britain for those measures of pretended retaliation, whose sole effect is to lay waste the neutral commerce of America.

With the remnant of those decrees which is still in force, and which consists of municipal regulations confined in their operation within the proper and undeniable jurisdiction of the states where they are executed, the United States have no concern, nor do they acknowledge themselves to be under any political obligation, either to examine into the ends proposed to be attained by this surviving portion of the continental system, or to oppose their accomplishment. Whatever may be intended to be done in regard to other nations by this system, cannot be imputed to the United States; nor are they to be made responsible, while they religiously observe the obligations of their neutrality, for the mode in which belligerent nations may choose to exercise their power for the injury of each other.

When, however, these nations exceed the just limits of their power, by the invasion of the rights of peaceful states on the ocean, which is subject to the common and equal jurisdistion of all nations, the United States cannot remain indifferent, and by quietly consenting to yield up their share of this jurisdiction, abandon their maritime rights. France has respected these rights by the discontinuance of her edicts on the high seas, leaving no part of these edicts in operation to the injury of the United States, and of course no part in which they can be supposed to acquiesce, or against which they can be required to contend.

They ask of Great Britain, by a like respect for their rights, to exempt them from the operation of her orders in council.—Should such exemption involve the total practical extinction of these orders, it will only prove that they were exclusively applied to the commerce of the United States, and that they had not a single feature of resemblance to the decrees against which they are professed to retaliate.

It is with patience and confidence that the United States have expected this exemption, to which they believe themselves en-

titled by all those considerations of right and promise, which I have here feebly stated to your lordship. With what disappointment, therefore, must they learn, that GreatBritain, in professing to do away their dissatisfaction, explicitly avows her intention to persevere in her orders in council, until some authentic act, hereafter to be promulgated by the French government, shall declare the Berlin and Milan decrees to be expressly and unconditionally repealed? To obtain such an act, can the United States interfere? Would such an interference be compatible either with a sense of justice, or with what is due to their own dignity? Can they be expected to falsify the repeated declarations of their satisfaction with the act of the 5th of August, 1810, confirmed by abundant evidence of its subsequent observance; and, by now affecting to doubt of the sufficiency of that act, to demand another, which, in its form, its mode of publication, and its import, shall accord with the requisitions of Great Britain? And can it be supposed that the French government would listen to such a proposal, made under such circumstances, and with such a view?

While, therefore, I can perceive no reason, in the report of the French minister of the tenth of March, to believe that the United States erroneously assumed the repeal of the French decrees to be complete in relation to them; while aware that the condition, on which the revocation of the orders in council is now distinctly made to depend, is the total repeal of both the Berlin and Milan decrees, instead, as formerly, of the Berlin decree only; and while I feel that to ask the performance of this condition from others, is inconsistent with the honour of the United States, and to perform it themselves, beyond their power, your lordship will permit me frankly to avow, that I cannot accompany the communication to my government, of the declaration and order in council of the twenty-first of this month, with any felicitation on the prospect which this measure presents of an accelerated return of amity and mutual confidence between the two states.

It is with real pain that I make to your lordship this avowal, and I will seek still to confide in the spirit, which your lordship in your note, and in the conversation of this morning, has been pleased to say actuated the councils of his royal highness in relation to America, and still to cherish a hope that this spirit will lead, upon a review of the whole ground, to measures of a nature better calculated to attain its object; and that this object will no longer be made to depend on the conduct of a third power, or upon contingencies on which the United States have

no controul, but alone upon the rights of the United States, the justice of Great Britain, and the common interests of both.

I have the honour to be, my lord, your lordship's most obedient servant,

(Signed) JONA. RUSSELL.

Extract of a letter from Mr. Russell to Mr. Monroe.

London, 1st May, 1812.

The declaration and order in council of the 21st ultimo, not only mark with the utmost precision the line of policy which the present ministry means inflexibly to pursue towards the United States, but confirm my conjectures in relation to the instructions lately sent to Mr. Foster, by the Mackerel. I have learnt, from a respectable source, that lord Sidmouth has declared, in reference to his attempt for a modification of the orders, that these measures were all that he could obtain. I wonder much how his lordship can suppose that in them he has obtained any thing.

I have not yet received any reply to my note to lord Castlereagh of the 25th ultimo.

Mr. Russell to Mr. Monroe.

Sir, *London, 9th May*, 1812.

I have the honour to hand you herewith a note from lord Castlereagh of the third of this month, acknowledging the receipt of that which I addressed to his lordship on the 25th ultimo.

I am sir, &c. &c. &c.

(Signed) JONA. RUSSELL.

The undersigned, his majesty's principal secretary for foreign affairs, has the honour to acknowledge the receipt of Mr. Russell's note of the 25th ultimo, in reply to that of the undersigned, dated the 21st, transmitting the declaration published on that day by order of his royal highness the prince regent, acting in the name and on the behalf of his majesty.

The undersigned cannot but express his sincere regret that the measure in question should have failed to produce a more favourable impression on Mr. Russell's mind. As his majesty's minister in America has been fully instructed to explain to the American government the motives which have influenced his majesty's government upon this occasion, the undersigned is commanded by the prince regent to abstain at present from entering into a discussion of those arguments against the decla-

ration, which Mr. Russell has deemed it expedient to bring forward in his note of the 25th.

The undersigned avails himself of this opportunity of renewing to Mr. Russell the assurances of his great consideration.

(Signed) CASTLEREAGH.

Foreign Office, 3d May, 1812.

British Order in Council of the 23d June, 1812, *with the correspondence relating thereto.*

[These papers have heretofore been laid before congress, but they are again submitted, as they have a relation to the report now made.]

Mr. Russell to Mr. Monroe.

Sir, *London, 26th June*, 1812.

I have the honour to transmit to you, enclosed, an order in council issued by this government, on the 23d of this month, and copies of two notes from lord Castlereagh of the same date, accompanying the communication of it to me, and also a copy of my note to him, of this day, in reply.

I can but regret that in this document any reservation has been made of a power of restoring the orders of the 7th of January, 1807, and of the 26th of April, 1809, to their full effect, whenever it shall be judged expedient so to do, as such reservation manifests an intention to maintain the principle on which they were founded, and in which I conceive the United States can never acquiesce.

Had this reservation not been made, the revocation of those orders would, perhaps, accompanied as it is with the verbal explanations of lord Castlereagh, alluded to in my note to him, have been considered to be as precise and complete as could reasonably, under every view of the subject, have been expected.

The reservation itself, although ungracious in appearance, will, I trust, prove harmless in effect, and, I presume, this government will be long deterred by its experience, from carrying into practice a principle to which it appears to be determined so ostentatiously to adhere in the abstract.

I am, with great consideration and respect, sir, your faithful and obedient servant,

JONA. RUSSELL.

Lord Castlereagh to Mr. Russell.

(Copy.)

Sir, *Foreign Office, June 23d*, 1812.

I am commanded by the prince regent to transmit to you for your information, the enclosed printed copy of an order in council, which his royal highness, acting in the name and on the behalf of his majesty, was this day pleased to issue, for the revocation (on the conditions therein specified) of the orders in council of the 7th of January, 1807, and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the first of August next.

I have the honour to be, with great consideration, sir, your most obedient humble servant,

(Signed) CASTLEREAGH.

Lord Castlereagh to Mr. Russell.

(Copy.)

Sir, *Foreign Office, June 23d*, 1812.

In communicating to your government the order in council of this date, revoking (under certain conditions therein specified) those of January 7th, 1807, and of April 26th, 1809, I am to request that you will at the same time acquaint them, that the prince regent's ministers have taken the earliest opportunity, after their resumption of the government, to advise his royal highness to the adoption of a measure grounded upon the document communicated by you to this office on the 20th ultimo; and his royal highness hopes that this proceeding on the part of the British government, may accelerate a good understanding on all points of difference between the two states.

I shall be happy to have the honour of seeing you at the foreign office at two o'clock to-morrow, and beg to apprize you that one of his majesty's vessels will sail for America with the despatches of the government, in the course of the present week.

I have the honour to be, with great consideration, sir, your most obedient humble servant,

(Signed) CASTLEREAGH.

At the Court at Carlton House, the twenty-third of June, one thousand eight hundred and twelve.

PRESENT,

His royal highness the prince regent in council.

Whereas his royal highness the prince regent was pleased to declare, in the name and on the behalf of his majesty, on the

21st day of April, 1812, "That if at any time hereafter the Berlin and Milan decrees shall, by some authentic act of the French government, publicly promulgated, be absolutely and unconditionally repealed, then and from thenceforth the order in council of the 7th of January, 1807, and the order in council of the 26th of April, 1809, shall, without any further order, be, and the same are hereby declared from thenceforth to be wholly and absolutely revoked:"

And whereas the charge des affaires of the United States of America, resident at this court, did, on the 20th day of May last, transmit to lord viscount Castlereagh, one of his majesty's principal secretaries of state, a copy of a certain instrument, then for the first time communicated to this court, purporting to be a decree passed by the government of France, on the 28th day of April, 1811, by which the decrees of Berlin and Milan are declared to be definitively no longer in force in regard to American vessels.

And whereas his royal highness the prince regent, although he cannot consider the tenor of the said instrument as satisfying the conditions set forth in the said order of the 21st of April last, upon which the said orders were to cease and determine, is nevertheless disposed on his part to take such measures as may tend to re-establish the intercourse between neutral and belligerent nations, upon its accustomed principles—his royal highness the prince regent, in the name and on the behalf of his majesty, is therefore pleased, by and with the advice of his majesty's privy council, to order and declare, and it is hereby ordered and declared, that the order in council bearing date the 7th day of January, 1807, and the order in council bearing date the 26th day of April, 1809, be revoked, so far as may regard American vessels and their cargoes, being American property, from the 1st day of August next.

But whereas, by certain acts of the government of the United States of America, all British armed vessels are excluded from the harbours and waters of the said United States, the armed vessels of France being permitted to enter therein; and the commercial intercourse between Great Britain and the said United States is interdicted, the commercial intercourse between France and the said United States having been restored; his royal highness the prince regent is pleased hereby further to declare, in the name and on the behalf of his majesty, that if the government of the said United States shall not, as soon as may be, after this order shall have been duly notified by his majesty's minister in America to the said government, revoke, or cause to be revoked, the said acts, this present order shall in that case,

after due notice signified by his majesty's minister in America to the said government, be thenceforth null and of no effect.

It is further ordered and declared, that all American vessels and their cargoes being American property, that shall have been captured subsequently to the 20th day of May last, for a breach of the aforesaid orders in council alone, and which shall not have actually been condemned before the date of this order; and that all ships and cargoes as aforesaid, that shall henceforth be captured under the said orders, prior to the first day of August next, shall not be proceeded against to condemnation till further orders, but shall, in the event of this order not becoming null and of no effect, in the case aforesaid, be forthwith liberated and restored, subject to such reasonable expenses on the part of the captors as shall been justly incurred.

Provided, that nothing in this order contained, respecting the revocation of the orders herein mentioned, shall be taken to revive wholly or in part the orders in council of the 11th of November, 1807, or any other order not herein mentioned, or to deprive parties of any legal remedy to which they may entitled under the order in council of the 21st of April, 1812.

His royal highness the prince regent is hereby pleased further to declare, in the name and on the behalf of his majesty, that nothing in this present order contained, shall be understood to preclude his royal highness the prince regent, if circumstances shall so require, from restoring, after reasonable notice, the orders of the 7th of January, 1807, and 26th of April, 1809, or any part thereof, to their full effect, or from taking such other measures of retaliation against the enemy, as may appear to his royal highness to be just and necessary.

And the right honourable the lords commissioners of his majesty's treasury, his majesty's principal secretaries of state, the lords commissioners of the admiralty, and the judge of the high court of admiralty, and the judges of the courts of vice-admiralty, are to take the necessary measures herein as to them may respectively appertain.

(Copy.)

My Lord, 18 *Bentinck Street*, *June* 26, 1812.

I have the honour to acknowledge the receipt of the two notes addressed to me by your lordship on the 23d of this month, enclosing an order in council issued that day by his royal highness the prince regent, acting in the name and on the behalf of his Britannic majesty, for the revocation (on the conditions therein specified) of the orders in council of the 7th of January, 1807,

and of the 26th of April, 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st of August next.

In communicating this document to my government, I shall, with much satisfaction, accompany it with the hopes which you state to be entertained by his royal highness the prince regent, that it may accelerate a good understanding on all points of difference between the two states.

I am the more encouraged to believe that these hopes will not be disappointed, from the assurance which your lordship was pleased to give me, in the conversation of this morning, that, in the opinion of your lordship, the blockade of the 16th of May, 1806, had been merged in the orders in council, now revoked and extinguished with them; and that no condition contained in the order of the 23d instant, is to be interpreted to restrain the government of the United States from the exercise of its right to exclude British armed vessels from the harbours and waters of the United States, whenever there shall be special and sufficient cause for so doing, or whenever such exclusion shall, from a general policy, be extended to the armed vessels of the enemies of Great Britain; this assurance I am happy to consider as evidence of a conciliatory spirit, which will afford on every other point of difference an explanation equally frank and satisfactory.

I am, my lord, with great consideration, your lordship's most obedient servant,

(Signed) JONA. RUSSELL.

Mr. Russell to the Secretary of State.

Sir, *London, 2d July*, 1812.

I avail myself of the opportunity afforded by the British packet, to transmit to you a copy of a noté from lord Castlereagh, of the 29th ultimo, which I trust will put at rest the blockade of 1806.

I acknowledged the receipt of this note, as you will observe by the enclosed copy of my reply, without a comment.

I did not think it useful to enter into a discussion at this moment, concerning the legality of that blockade, which, as no new doctrine appears to be assumed, is made to depend upon the fact, the application of an adequate force.

In like manner I have forborne to notice his lordship's observations concerning the exclusion from our ports of British vessels of war. As such exclusion is required to accord with the

obligations of strict neutrality only, the conduct and character of the government of the United States furnish security against any question arising on that subject.

I have the honour to be, &c.

(Signed) JONA. RUSSELL.

Lord Castlereagh to Mr. Russell.

Foreign Office, June 29, 1812.

Lord Castlereagh has the honour to acknowledge the receipt of Mr. Russell's communication of the 26th instant.

That no mistake may prevail upon the explanation given in conversation by lord Castlereagh to Mr. Russell, on the two points referred to in Mr. Russell's letter, lord Castlereagh begs leave to re-state to Mr. Russell, with respect to the blockade of May, 1806, that, in point of fact, this particular blockade has been discontinued for a length of time; the general retaliatory blockade of the enemy's ports, established under the orders in council of November, 1807, having rendered the enforcement of it by his majesty's ships of war no longer necessary, and that his majesty's government have no intention of recurring to this, or to any other blockade of the enemy's ports, founded upon the ordinary and accustomed principles of maritime law, which were in force previous to the order in council, without a new notice to neutral powers in the usual forms.

With respect to the provision of the order of the 23d instant, which refers to the admission of British ships of war into the harbours and waters of the United States, lord Castlereagh informs Mr. Russell, that this claim is made in consequence of his majesty's ships being now excluded, whilst those of the enemy are admitted. It is the partial admission of one of the belligerents of which Great Britain feels herself entitled to complain, as a preference in favour of the enemy incompatible with the obligations of strict neutrality. Were the exclusion general, the British government would consider such a measure, on the part of America, as matter of discussion between the two states, but not as an act of partiality of which they had in the first instance a right to complain.

Lord Castlereagh avails himself of this opportunity to renew to Mr. Russell the assurances of his high consideration.

Mr. Russell to Lord Castlereagh.

18 *Bentinck Street, 1st July*, 1812.

Mr. Russell has the honour to acknowledge the receipt of the note of lord Castlereagh, dated the 29th ultimo, containing

explanations relative to the two points referred to in Mr. Russell's note of the 26th of that month, and will take the earliest opportunity of communicating it to his government.

Mr. Russell begs leave to avail himself of this occasion to repeat to lord Castlereagh the assurances of his high consideration.

Letter from the Secretary of the Treasury, transmitting his annual Report on the state of the Finances; prepared in obedience to the act to establish the Treasury Department.

Sir, *Treasury Department, June 2d*, 1813.

I have the honour to transmit a report prepared in obedience to the "Act supplementary to the act, entitled "An act to establish the treasury department."

I have the honour to be, very respectfully, sir, your obedient servant,

W. JONES,
Acting Secretary of the Treasury.

The Honourable the Speaker
of the House of Representatives.

In obedience to the act "Supplementary to the act, entitled "An act to establish the treasury department," the acting secretary of the treasury respectfully submits the following

REPORT:

The receipts into the treasury from the first of October, 1812, to the 31st of March, 1813, have amounted to	$ 15,412,416 25
The balance in the treasury on the 30th of September, 1812, was	2,362,652 69
Making together	$ 17,775,068 94
The expenditures from the first of October, 1812, to the 31st of March, 1813, have amounted to	$ 15,919,334 41
Leaving a balance in the treasury on 1st of April, 1813, of	1,855,734 53
	$ 17,775,068 94

The enclosed statement (A) shows in detail the several sources from which the receipts were derived, and the branches of expenditure to which the disbursements from the treasury were applied.

Pursuant to the act of the 8th of February last, subscriptions for a loan of sixteen millions of dollars were opened on the 12th and again on the 25th of March last. But although a thirteen years' annuity of one per cent. was offered in addition to a six per cent. stock at par, for the money which might be subscribed, it being apparent from the result of the first subscription, that the whole amount could not be obtained on those terms, proposals in writing were invited. Offers, exceeding by about a million of dollars the amount wanted, were received, some demanding a thirteen year's annuity of one and a half per cent. in addition to six per cent. stock at par, but most of them requiring a six per cent. stock at the rate of 88 per cent. On these terms, leaving to the subscribers the option, the loan was effected. In conformity with the public notification, the same terms were extended to those persons who had subscribed on the first opening of the subscription, and they have the same option;—which, if the stock at the rate of 88 per cent. be taken, is equivalent precisely to a premium of 13 dollars 63 cents and $\frac{7}{11}$ of a cent for each hundred dollars loaned to government. The enclosed papers under the letter (B) are copies of the several public notices given on the subject, and a statement of the monies respectively obtained by open subscriptions and by written proposals, and showing also the sums obtained and payable in each place where subscriptions were opened. Of that sum of sixteen millions of dollars thus obtained on loan, there was paid into the treasury, prior to the 1st of April, 1813, the sum of $ 1,086,737 50, which makes a part of the monies received previous to that day, as stated in the statement (A).

The resources for the residue of the year 1813, consist of the following items, viz.:

1. The remainder of the loan above mentioned	$ 14,913,262 50
2. The sums payable on account of customs and of the sales of public lands, estimated at	9,320,000 00
3. The five millions of dollars in treasury notes, authorised by the act of February 25, 1813	5,000,000 00
Say	$ 29,230,000 00

The expenses for the last nine months of the present year are calculated as followeth, viz.:

1. Civil list, and all expenses of a civil nature, both foreign and domestic	$ 900,000 00
2. Payments on account of the principal and interest of the public debt	10,510,000 00
3. Expenses on account of the war and navy departments	17,820,000 00
	$ 29,230,000 00

Of the sum of $ 1,855,734 53, remaining in the treasury on the first of April last, a small part may be considered as applicable to such extraordinary expenses already authorised, as may arise during the remainder of the year; and for the same object, the sum of one million of dollars, authorised by an act of the state of Pennsylvania to be loaned to the United States, but which was not offered in time to be accepted as a part of the loan of sixteen millions, may be considered as a resource.

In this estimate the whole sum of five millions of dollars authorised to be issued in treasury notes, is taken as a part of the resources of the present year. But as it is not deemed eligible to increase the amount of treasury notes in circulation, and as three millions only of those authorised by the act of 1812 were issued in that year, and are reimburseable in the course of the present year, it is respectfully suggested, that in lieu of two millions of the five millions authorised by the act of February, 1813, congress should authorise an additional loan for the same amount, it being made a condition of such loan that its terms should not be higher than those of the loan of sixteen millions already effected. The provision already considered is for the service of the present year only. That which will be necessary for the year 1814 requires an early attention.

It is difficult to estimate with accuracy the sum which will be received into the treasury from the revenue as now established. During a state of war, the customs, at the present rate of duties, have been heretofore estimated to produce five millions of dollars. The additional tonnage duty imposed upon foreign vessels by the act of the first of July, 1812, producing about 200,000 dollars a year, is not included in that sum. It is believed that, during the year 1814, a greater sum than five millions two hundred thousand dollars ought to be relied upon as receivable into the treasury from custom-house duties. The sum arising from sales of public lands may be estimated at six hundred thousand dollars, making together 5,800,000 dollars.—The interest alone, on the public funded debt, on temporary

loans, and on the treasury notes which will become payable in that year, will amount to four millions four hundred thousand dollars. The other engagements, on account of the principal of the funded debt, of temporary loans, and of treasury notes which will become reimburseable in that year, amount to 7,150,000 dollars, exceeding together, by more than five millions seven hundred thousand dollars, the estimated amount of the receipts into the treasury derived from the revenue as now established.

This view of the subject is sufficient to evince the necessity of a speedy and effectual provision for the service of that and the ensuing years. The mode and the extent to which this provision should be carried have been heretofore suggested from this department to congress, and have received the consideration of that body. The expenses of the peace establishment of the United States, and the interest on the public debt, including that on the loans made for the prosecution of the war, are believed to be the least sum that ought, under any circumstances, to be raised within each year. These, if the expenses of the peace establishment are taken at the sum necessary for the ordinary expenditure of the United States previously to the additional armaments made in the year 1812, with a view to an approaching state of war, and including the interest on the loans of the years 1812 and 1813, and also of that which will probably be necessary in the year 1814, will amount during that year to eleven millions four hundred thousand dollars. viz.:

The expense of the peace establishment, exclusive of the additional force authorised by the acts passed during the year 1812, may be estimated at		$ 7,000,000
The interest on the public debt during the year 1814, will be as follows:		
On the old funded debt	$ 2,100,000	
On 6 per cent. stock of 1812, including temporary loans received in part of the loan of eleven millions, which will remain unpaid in 1814	500,000	
On 6 per cent. stock of 1813	1,090,000	
On treasury notes which will be reimbursable in 1814, say on 5,000,000 of dollars at $5\frac{2}{5}$ per cent.	270,000	
		3,960,000

On the loan for the year 1814, interest payable within that year	440,000
	$ 11,400,000
The revenue now established, being estimated to produce	5,800,000
Would leave to be raised	5,600,000
To cover the above sum of	11,400,000
The internal taxes heretofore proposed, were estimated to produce	5,000,000
And the duty of 20 cents a bushel on salt imported, which, though estimated heretofore at only 400,000 dollars a year, during a state of war, yet as the consumption considerably exceeds 2,000,000 of bushels, may be estimated to produce	600,000
Making the sum wanted	5,600,000

Although the taxes, if early laid, may be brought into operation in the commencement of the year 1814, yet, as they cannot be expected to have their full effect during that year, some auxiliary resource will be required. This may be found in the sum of 1,500,000 dollars, which is the excess of the sinking fund for the present year, over the demands on that fund according to the existing engagements of the United States; this sum of $1,500,000 may be carried to the sinking fund for the year 1814, and will be wanted in addition to the annual appropriation of $800,000, to meet the engagements on account of the public debt, which must be fulfilled during that year.

As reliance must be had upon a loan for the war expenses of the year 1814, the laying of the internal taxes may be considered, with a view to that object, as essentially necessary; in the first place, to facilitate the obtaining of the loan, and secondly, for procuring it on favourable terms. It is ascertained that the terms of the loan, for the present year, would have been more favourable if the taxes had been previously laid; and it is obvious enough, that, by affording a security for the regular payment of the interest and the eventual reimbursement of the principal, more stable, and less liable to be weakened or cut off by the natural effects of war upon external commerce, than a revenue depending, as that of the United States now does, al-

most wholly upon such external commerce, capitalists will advance with greater readiness, and at a lower rate of interest, the funds necessary for the prosecution of the war. Public confidence will be ensured, and the means afforded of preserving the public credit unimpaired; a measure of the utmost importance in a country like ours, where, from the lightness of the demands made upon the people during the continuance of peace, the extraordinary expenses of a state of war can be supplied only by a resort to that credit.

The resources of the country are ample, and if the means now proposed, and those heretofore recommended from this department, are adopted, it is believed they may be fairly and fully brought into action.

All of which is respectfully submitted.

W. JONES,
Acting Secretary of the Treasury.

Treasury Department, June 2d, 1813.

A.

Receipts and expenditures at the Treasury of the United States from 1st October, 1812, *to 31st March*, 1813.

Cash in the treasury, subject to warrant, 1st October, 1812,		$ 2,362,652 69
Received for customs	$ 4,720,001 44	
arrears of direct tax	105 52	
sales of public lands	450,596 95	
cents coined at the mint	2,780	
fees on letters patent	3,060	
postage of letters	39 70	
seamen's stores sold, and fund for relief of seamen	284 45	
fines, penalties, and forfeitures	1,984 96	
repayments of monies advanced	20,892 51	
prize money for navy pension fund	3,645 72	

Brought forward		5,203,391 25	2,362,652 69
Received for interest on treasury notes		300	
		5,203,691 25	
Treasury notes, (act of 1812)	4,752,500		
Ditto, (act of 1813)	32,000		
	4,784,500		
Loan of 11 millions, (1812)	4,337,487 50		
Loan of 16 millions, (1813)	1,086,737 50		
		10,208,725	
			15,412,416 25
			17,775,068 94
Expenditures, viz.:			
on account of the civil department		440,473 76	
miscellaneous expenses		368,518 64	
diplomatic do.		48,087 37	
military department		9,039,275 49	
naval do.		2,690,752 20	
public debt		3,332,226 95	
			15,919,334 41
Cash in the treasury, subject to warrant, March 31, 1813			$ 1,855,734 53

B.

The United States' Loan of $16,000,000 *has been taken up in the following manner and proportions:*

First subscription on the 12th and 13th of March, 1813,	$ 3,956,400
Second subscription, 25th to 31st do.	1,881,800
Proposals made on the 5th of April, of which only $10,161,800 could be received	11,106,000
To which may be added the amount intended to be loaned by the state of Pennsylvania,	

the proposal for which, not being received in time, could not be admitted	1,000,000
	$ 17,944,200

Being $1,944,200 more than the sum of 16,000,000 authorised by law, and actually borrowed.

That sum of $16,000,000 has been subscribed, and is payable at the following places :

New Hampshire, Portsmouth	40,000
Massachusetts, Portland	120,000
Salem	183,600
Boston	75,300
Rhode Island, Providence	67,800
New York, New York	5,437,100
Albany,	283,500
Pennsylvania, Philadelphia	6,858,400
Maryland, Baltimore	1,950,800
Columbia, Washington	442,500
Virginia, Richmond	49,000
Petersburg	35,000
Norfolk	103,000
South Carolina, Charleston	354,000
	$ 16,000,000

B. 1.

Whereas by an act of congress passed on the eighth day of February, one thousand eight hundred and thirteen, the president of the United States is authorised to borrow, on the credit of the United States, a sum not exceeding sixteen millions of dollars, so however, that no engagement or contract shall be entered into, which shall preclude the United States from reimbursing any sum or sums thus borrowed, at any time after the expiration of twelve years from the first day of January, one thousand eight hundred and fourteen. And whereas by the said act, so much of the funds constituting the annual appropriation of eight millions of dollars for the payment of the principal and interest of the public debt of the United States, as may be wanted for that purpose, after satisfying the sums necessary for the payment of the interest and such part of the principal of said debt as the United States are now pledged annually to pay and reimburse, is pledged and appropriated for the payment of the interest, and for the reimbursement of the principal of the

stock now to be created, and the faith of the United States is pledged to establish sufficient revenues for making up any deficiency that may hereafter take place in the funds now appropriated for paying the interest and principal as aforesaid. And whereas the president of the United States did, by an act or commission under his hand, dated the seventeenth day of February, one thousand eight hundred and thirteen, authorise and empower the secretary of the treasury to borrow, on behalf of the United States, a sum not exceeding in the whole sixteen millions of dollars, and to make the necessary contracts for the same, pursuant to the act of congress above recited:

Now therefore, the undersigned, secretary of the treasury, in pursuance of the act of congress, and the authority from the president of the United States above mentioned, doth hereby, on behalf of the United States, contract and engage in the manner following, to wit:

1. Books for receiving subscriptions to a loan of sixteen millions of dollars, for the use of the United States, shall be opened on the twelfth day of March next,

At *Portsmouth*, *N. H.*, at the New Hampshire Union Bank.

At *Salem*, *Mass.*, at the Merchants' Bank.

At *Boston*, *Mass.*, at the State Bank.

At *Providence*, *R. I.*, at the Roger Williams' Bank.

At *the city of New York*, at the Manhattan Company, and at the Mechanics' Bank.

At *Albany*, at the New York State Bank, and at the Mechanics' and Farmers' Bank.

At *Philadelphia*, at the Bank of Pennsylvania, the Farmers' and Mechanics' Bank, and the Philadelphia Bank.

At *Baltimore*, at the Bank of Baltimore, the Commercial and Farmers' Bank, and the Union Bank of Maryland.

At *the city of Washington*, at the Bank of Washington, and the office of the Bank of Columbia.

At *Richmond*, *Va.*, at the Bank of Virginia.

At *Charleston*, *S. C.*, at the State Bank, and the Planters' and Mechanics' Bank.

And at any other incorporated bank in any of the above named cities or towns, which shall open books for receiving subscriptions as aforesaid, and give public notice thereof.

Which books shall continue open for receiving subscriptions during the ordinary hours of transacting business at the said banks, on Friday the twelfth and Saturday the thirteenth day of March next. If more than sixteen millions of dollars in the whole shall be subscribed, the surplus shall be deducted in proportion to the sums subscribed in each place respectively, by a

reduction of the subscriptions exceeding four thousand dollars. But no reduction shall be made, of the subscriptions made by any persons or bodies corporate, holders (at the time of subscribing) of stock issued under the act of March 14, 1812, called "six per cent. stock of 1812," unless the aggregate of their subscriptions should exceed sixteen millions of dollars; in which case the surplus shall be deducted, by a reduction of the proportionally highest subscriptions. If any subscription shall be thus reduced, the amount of such reduction shall be forthwith returned to the subscriber from whom such reduction shall have been made.

2. No subscriptions will be received for a sum less than one hundred dollars, nor for a fractional part of a hundred dollars.

3. For every hundred dollars which may be subscribed, there shall be paid at the time of subscribing, twelve dollars and fifty cents, and a like sum of twelve dollars and fifty cents on the first day of each of the ensuing months of April, May, June, July, August, September, and October, 1813, respectively.—Each subscriber, at the time of paying any of the above instalments, after the first, may pay all or any number of the subsequent instalments, and will be entitled to receive interest at the rate of six per centum per annum on the amount thus paid, from the time of actual payment.

4. On the failure of payment of any instalment of the sums subscribed, according to the tenor of the third article, the next preceding instalment of twelve dollars and fifty cents, which shall have been paid for every hundred dollars subscribed, shall be forfeited to the United States.

5. Each subsequent instalment must be paid at the same bank at which the original subscription was made and where the first instalment was paid.

6. The cashiers of the respective banks where subscriptions are received, shall, within twenty days after the time of subscribing, give certificates stating the sums subscribed and payment made, and on which the payments of the subsequent instalments, when made, shall be respectively endorsed; which certificates shall be assignable by endorsement and delivery of the parties in whose favour they may be issued, until the completion of the payments required by the tenor of the third article.

7. After the completion of the payments aforesaid, the proprietors of the certificates of the cashiers, on which such payments have been completed, on surrendering the same at the loan office of the state in which the subscription and payments shall have been made, shall be entitled to receive from the commissioner of loans, certificates of FUNDED CAPITAL STOCK for the amount thus sub-

scribed and paid, bearing an interest of six per centum per annum, from the time when the said instalments shall have been paid respectively, and payable quarterly at the several loan offices, or at the treasury of the United States, where the same may stand credited: and shall moreover receive from the commissioner of loans, a certificate entitling such proprietor to an ANNUITY or annual sum, payable quarter yearly, for *thirteen* years, commencing on the first day of January, one thousand eight hundred and thirteen, of one dollar on every hundred dollars thus subscribed and paid; which certificates of annuity shall constitute a separate and distinct stock, and may be sold, assigned, and transferred to and from the books of the treasury, or of the several loan offices, separately and distinctly from the aforesaid funded capital six per cent. stock. And the said funded capital stock, and the said annuities, shall be transferrable by their respective proprietors in person, or by their attornies duly constituted, in the same manner as the present funded debt of the United States, and in pursuance of the rules which have been or which may be established relative to the transfer of the said debt.

8. After the payment of the fifth instalments, such of the proprietors of the certificates of the cashiers, of two hundred dollars and upwards, as may then be desirous of funding the same, may, on presenting them at the loan office of the state in which the subscription and payments shall have been made, receive from the commissioner of loans, certificates of funded capital six per cent. stock, for the amount of the four first instalments, or one moiety of the sum expressed in the certificates of the cashiers; and also certificates for one moiety of the thirteen years' annuity of one dollar on the hundred dollars subscribed. But no certificate of funded capital six per cent. stock including a fractional part of a hundred dollars, or certificate of annuity including a fractional part of a dollar, will be issued.

9. After the last day of December, in the year one thousand eight hundred and twenty-five, and after reasonable notice to the creditors, which shall be given by an advertisement in some public newspaper, printed at the seat of the government of the United States, the said capital six per cent. stock shall be redeemable at the pleasure of the United States, by the reimbursement of the whole sum which may at that time stand credited to any proprietor on the books of the treasury or of the loan offices respectively. And the payments of the said annuities for thirteen years, shall cease and determine on the first day of January, one thousand eight hundred and twenty-six, when the certificates of the same shall be surrendered up and cancelled.

10. So much of the funds constituting the annual appropriation of eight millions of dollars, for the payment of the principal and interest of the public debt of the United States, as may be necessary for the regular payment of the interest and for the reimbursement of the principal of the stock, and for the regular payment of the annuities to be created under this contract, together with the faith of the United States for its due fulfilment, are hereby pledged in pursuance of, and according to the terms and conditions of the act of congress herein before recited.

Given under my hand and the seal of the treasury of the United States, at Washington, this twentieth day of February, one thousand eight hundred and thirteen.

ALBERT GALLATIN,
Secretary of the Treasury.

B. 2.

UNITED STATES' LOAN.

Treasury Department, March 18th, 1813.

Notice is hereby given, that the books for receiving subscriptions to the loan authorised by the act of congress of February 8th, 1813, will again be opened on the 25th day of this month, on the same terms and conditions as heretofore, and continue so open till the 31st day of this month, unless sooner closed by public notice, at the following places, and for the following sums respectively, that is to say :

At *New York*, for five millions of dollars :
At the Manhattan Company
Mechanics' Bank
City Bank
Merchants' Bank
Bank of America.

At *Philadelphia*, for five millions of dollars :
At the Bank of Pennsylvania
Farmers' and Mechanics' Bank
Philadelphia Bank
Stephen Girard's Bank.

At *Baltimore*, for one million seven hundred thousand dollars :
At the Bank of Baltimore
Commercial and Farmers' Bank
Union Bank of Maryland
Mechanics' Bank
Marine Bank.

At *Washington*, for three hundred thousand dollars :
At the Bank of Washington
Office of the Bank of Columbia.

Proposals will also be received by the secretary of the treasury, until the fifth day of April next, from any person or persons, body or bodies corporate, who may offer for themselves or others to subscribe for the whole or part of the residue of the loan aforesaid, which may not have been subscribed for, prior to the first day of April next. The proposals must distinctly state the amount offered to be loaned, the species of stock or stocks which the parties wish to obtain, and the price they will allow for the same. Unless a different modification should be asked in the proposal, it will be understood that the amount loaned will be paid into the treasury in four equal instalments, viz.: on the 15th days of April, June, August, and October next; and that the stock issued will be irredeemable till the 31st day of December, 1825.

If proposals shall be made, amounting together to a greater sum than that required, the preference will, on equal terms, be given to stockholders of the six per cent. stock of 1812.

If any proposals differing in terms from one another, or from those on which subscriptions have already, or may be made, prior to the first day of April next, should be accepted, all the parties, including those who have already subscribed or may subscribe, prior to the first day of April next, shall be placed on the same footing, by giving to all the option either of the terms offered by them, or on which they have subscribed, or of those offered by any other persons, and which shall have been accepted.

No proposal will be received for a sum less than one hundred thousand dollars. But a commission of one quarter per cent. will be allowed to any person collecting subscriptions for the purpose of incorporating them in one proposal, to the amount of one hundred thousand dollars or upwards; provided that such proposal shall be accepted.

All the proposals must be transmitted by duplicates, one directed to the city of Washington, and the other (under cover of the cashier of the bank of Pennsylvania) to Philadelphia.

ALBERT GALLATIN,
Secretary of the Treasury.

B. 3.

UNITED STATES' LOAN.

Treasury Department, April 15th, 1813.

Those persons who have subscribed to the United States' loan of sixteen millions of dollars, prior to the first day of the present month of April, are hereby notified, that terms different from

those under which they made their subscriptions, have been allowed to the persons who have taken the remainder of the said loan of sixteen millions; and that, conformably to the public notification from this department of the 18th of March last, those who subscribed prior to the first of April, have the privilege of taking the terms thus subsequently allowed; and which terms are as follow, viz.:

1. That the subscriber shall receive a six per cent. stock, the interest payable quarter yearly, redeemable at the pleasure of the United States, at any time after the end of the year 1825, at the rate of *eighty-eight* per cent.; or 100 dollars in stock for 88 dollars in money; or
2. That the subscriber, for every hundred dollars in money, shall receive one hundred dollars in the same species of six per cent. stock, and an annuity for thirteen years from the first day of January last, of one dollar and fifty cents, payable quarter yearly.

The subscribers who may wish to avail themselves of these terms, will present their scrip certificates to the cashier of the bank by whom they were issued, and will express in writing, on the face of the same, which of the above terms they will elect to accept, and will receive from the cashier new scrip certificates conformably thereto; the payments upon which, and funding whereof, are to be effected in the same manner as before.

Such subscribers as have already completed their payments, and obtained certificates of funded stock and annuities, on the terms originally proposed, are to surrender the same to the commissioner of loans, or to the register of the treasury, by whom they were issued, expressing their election in the same manner; and will receive from him certificates of funded stock, and of annuities, as the case may be, in conformity with the election they may thus make.

ALBERT GALLATIN,
Secretary of the Treasury.

C.

View of the Sinking Fund, for the year 1813.

The balance belonging to this fund remaining unapplied on the 31st December, 1812, per report of commissioners to congress, of February 6, 1813, was		$ 3,550,369 11
The annual appropriation for the year 1813		8,000,000
Making together		11,550,369 11
There was applied during the first quarter of the year 1813		1,036,868 28
Leaving to be applied in the three last quarters of that year		10,513,500 83

The manner in which the amount will be applied in the year 1813, is as follows:

Interest and reimbursement of old six and deferred stocks, estimated at		$ 2,160,000
Interest on exchanged six per cent. stock of 1812		180,000
three per cent. stock		485,000
1796 six per cent. stock		5,000
Louisiana stock and charges		680,000
six per cent. stock of 1812, including temporary bank loans and some arrearages		700,000
new stock of 1813		470,000
Principal of temporary loans reimbursable in 1813		1,350,000
Treasury notes, including those payable on the 1st and 11th of January, 1814, which must be provided for by the 31st of December, 1813	3,804,500	
Interest on the same	205,443	
say		4,010,000
		10,040,000

Brought over	10,040,000
There was paid on account of the above, in the first quarter of 1813	1,036,868 28
Leaving payable in the three last quarters of that year, say	9,000,000
And will leave to be applied to the purchase of stock, or to be carried to the sinking fund for the year 1814	1,513,500 83
	$ 10,213,500 83

END OF VOL. I.